

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 6-K**

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**REPORT OF FOREIGN PRIVATE ISSUER  
PURSUANT TO RULE 13a-16 OR 15d-16 OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**Dated: January 25, 2012**

**Commission File No. 001-33311**

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**NAVIOS MARITIME HOLDINGS INC.**

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**85 Akti Miaouli Street, Piraeus, Greece 185 38**  
(Address of Principal Executive Offices)

Indicate by check mark whether the registrant files or will file annual reports under cover Form 20-F or Form 40-F:

Form 20-F       Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Yes       No

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7):

Yes       No

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## Facility Agreement

On December 29, 2011, Mandora Shipping Ltd (“Mandora”), a wholly owned indirect subsidiary of Navios Maritime Holdings Inc. (“Navios Holdings”), entered into a facility agreement with Emporiki Bank of Greece S.A. for an amount of up to \$23.0 million in order to partially finance the purchase and construction of a Kamsarmax bulk carrier scheduled to be delivered on March 30, 2012 by a South Korean shipyard. The loan is scheduled to be made to Mandora in three advances. The facility is repayable in 20 semi-annual installments of \$0.8 million after the drawdown date for the final advance of the loan, with a final balloon payment of \$8.0 million on the last payment date. The interest rate of the facility is based on a margin of 325 bps.

Navios Holdings is a guarantor of the obligations of Mandora under the facility agreement. Mandora and Navios Holdings are subject to certain covenants, including financial covenants, under the facility agreement. Among other events, it will be an event of default under the facility agreement if the financial covenants are not complied with or if Angeliki Frangou and her affiliates, together, own less than 20% of the outstanding share capital of Navios Holdings.

The foregoing description is subject in all respects to the actual terms of the facility agreement. A copy of the facility agreement is furnished as Exhibit 10.1 to this Report and is incorporated herein by reference.

## Supplemental Indentures

On December 29, 2011, Navios Holdings entered into a Second Supplemental Indenture in order to add Mandora as a guarantor to the indenture, dated January 28, 2011, governing Navios Holdings’ 8 1/8% Senior Notes due 2019. A copy of the Second Supplemental Indenture is furnished as Exhibit 10.2 to this Report and is incorporated herein by reference.

On December 29, 2011, Navios Holdings entered into an Eighth Supplemental Indenture in order to add Mandora as a guarantor to the indenture, dated November 2, 2009, governing Navios Holdings’ 8 7/8% First Priority Ship Mortgage Notes due 2017. A copy of the Eighth Supplemental Indenture is furnished as Exhibit 10.3 to this Report and is incorporated herein by reference.

The information contained in this Report is incorporated by reference into the Registration Statements on Form F-3, File Nos. 333-136936 and 333-165754, the Registration Statement on Form S-8, File No. 333-147186, and the related prospectuses.

## Exhibits

<u>Exhibit No.</u>	<u>Exhibit</u>
10.1	Facility agreement of up to \$23,000,000, dated December 29, 2011.
10.2	Second Supplemental Indenture, dated as of December 29, 2011.
10.3	Eighth Supplemental Indenture, dated as of December 29, 2011.

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized.

NAVIOS MARITIME HOLDINGS INC.

By: \_\_\_\_\_ /s/ ANGELIKI FRANGOU

**Angeliki Frangou**  
**Chief Executive Officer**  
**Date: January 25, 2012**

Private and Confidential

DATED 29 December 2011

MANDORA SHIPPING LTD (1)

EMPORIKI BANK OF GREECE S.A. (2)

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FACILITY AGREEMENT  
in respect of  
a loan of up to USD23,000,000

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**INCE & CO**

PIRAEUS

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**THIS AGREEMENT** is dated 29 December 2011 and made **BETWEEN**:

- (1) **MANDORA SHIPPING LTD** as Borrower; and
- (2) **EMPORIKI BANK OF GREECE S.A.** as Bank.

**IT IS AGREED** as follows:

## **1 PURPOSE AND DEFINITIONS**

### **1.1 Purpose**

This Agreement sets out the terms and conditions upon which the Bank agrees to make available to the Borrower a facility of up to USD23,000,000 (to be drawn in up to 3 Advances), for the purpose of part-financing the purchase and construction price of one kamsamax bulk carrier which is to be constructed by the Builder for, and purchased by, the Borrower.

### **1.2 Definitions**

In this Agreement, unless the context otherwise requires:

“**Advance**” means the principal amount of each drawing in respect of the Loan to be made pursuant to Clause 2.3;

“**Approved Broker**” means each of (i) H Clarkson & Co. Ltd. of St Magnus House, 3 Lower Thames Street, London EC3R 6HE, England, (ii) Arrow Research Ltd. of Harbour House, Chelsea Harbour, London SW10 0XE, England and (iii) Fearnleys AS of Grev Wedels Plass 9, P.O.Box 1158 Sentrum, Oslo N-0107 Norway or such other reputable, independent and first class firm of shipbrokers specialising in the valuation of vessels of the relevant type appointed by the Bank and agreed with the Borrower;

“**Assignee**” is defined in clause 15.3;

“**Bank**” means Emporiki Bank of Greece S.A. acting through its branch at 1, Korai Street, 105 64 Athens, Greece (or of such other address as may last have been notified to the Borrower pursuant to clause 16.2.3);

“**Banking Day**” means a day on which dealings in deposits in USD are carried on in the London Interbank Eurocurrency Market and a day (other than Saturday or Sunday) on which banks are open for general business in London, Piraeus and New York City and, in relation to any payment to be made into or out of China, China (or any other relevant place of payment under clause 6);

“**Borrower**” means Mandora Shipping Ltd, a corporation incorporated in the Marshall Islands with its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

“**Borrower’s Security Documents**” means, at any relevant time, such of the Security Documents as shall have been executed by the Borrower;

“**Break Costs**” means the aggregate amount of all losses, premiums, penalties, costs and expenses whatsoever certified by the Bank at any time and from time to time as having been incurred by it in maintaining or funding the Loan or in liquidating or re employing fixed deposits acquired to maintain the same as a result of either:

- (a) any repayment or prepayment of the Loan or any part thereof otherwise than in accordance with, respectively, clause 4.1 or clause 4.3 whether on a voluntary or involuntary basis or otherwise howsoever or

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(b) of the Borrower failing or being incapable of drawing the Loan after a Drawdown Notice has been given;

“**Casualty Amount**” means five hundred thousand Dollars (USD500,000) (or the equivalent in any other currency);

“**Certified Copy**” means in relation to any document delivered or issued by or on behalf of any company, a copy of such document certified as a true, complete and up to date copy of the original by any of the directors or officers for the time being of such company or by such company’s attorneys or solicitors;

“**Charter Assignment**” means a specific assignment of any Extended Employment Contract required to be executed hereunder by the Borrower in favour of the Bank (including any notices and/or acknowledgements and/or undertakings associated therewith) in such form as the Bank may require in its sole discretion;

“**Charter Insurance Assignment**” means a first priority assignment of the Charter Insurances executed or to be executed by such named insured as the Bank may require in favour of the Bank, in such form as the Bank may in its sole discretion require;

“**Charter Insurances**” means all policies and contracts of insurance which are from time to time during the Facility Period in place or taken out or entered into by or for the benefit of the Borrower in respect of loss of charter earnings and all benefits thereof (including claims of whatsoever nature and return of premiums);

“**Classification**” means, in relation to each Vessel, the highest class available for a vessel of her type with the relevant Classification Society;

“**Classification Society**” means, in relation to each Vessel, any IACS classification society which the Bank shall, at the request of the Borrower, have agreed in writing shall be treated as the classification society in relation to such Vessel for the purposes of the relevant Ship Security Documents;

“**Commitment**” means, in relation to the Loan, the maximum amount which the Bank has agreed to lend to the Borrower under clause 2.1 as reduced by any relevant term of this Agreement;

“**Compulsory Acquisition**” means, in respect of the Vessel, requisition for title or other compulsory acquisition including, if the Vessel is not released therefrom within the Relevant Period, capture, appropriation, forfeiture, seizure, detention, deprivation or confiscation howsoever for any reason (but excluding requisition for use or hire) by or on behalf of any Government Entity or other competent authority or by pirates, hijackers, terrorists or similar persons; “**Relevant Period**” means for the purposes of this definition of Compulsory Acquisition either (i) ninety (90) days or, (ii) if relevant underwriters confirm in writing (in terms satisfactory to the Bank) prior to the end of such ninety (90) day period that such

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capture, seizure, detention or confiscation will be fully covered by the Borrower's war risks insurance if continuing for a further period exceeding ten (10) calendar months, the shorter of twelve (12) months and such period at the end of which cover is confirmed to attach;

**"Corporate Guarantee"** means the guarantee required to be executed hereunder by the Corporate Guarantor in such form as the Bank may agree or require ;

**"Corporate Guarantor"** means Navios Maritime Holdings Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

**"Default"** means any Event of Default or any event or circumstance which with the giving of notice or lapse of time or the satisfaction of any other condition (or any combination thereof) would constitute an Event of Default;

**"Delivery Date"** means the date on which title to and possession of the Vessel is transferred from the Builder to the Borrower, which is expected to be 30 March 2012;

**"Dollars"** and **"USD"** mean the lawful currency of the USA and in respect of all payments to be made under any of the Security Documents means funds which are for same day settlement in the New York Clearing House Interbank Payments System (or such other US dollar funds as may at the relevant time be customary for the settlement of international banking transactions denominated in US dollars);

**"Drawdown Date"** means, in relation to each Advance, any date being a Banking Day falling during the relevant Drawdown Period, on which the relevant Advance is, or is to be, made available;

**"Drawdown Notice"** means, in relation to each Advance, a notice substantially in the form of schedule 1;

**"Drawdown Period"** means the period commencing on the Execution Date and ending on the earlier of (i) 30 September 2012 or such other date as the Bank may in its absolute discretion agree and (ii) any date on which the Commitment is finally cancelled or fully drawn under the terms of this Agreement;

**"Earnings Account"** means an interest bearing USD Account required to be opened hereunder with the Bank in the name of the Borrower designated "Mandora Shipping Ltd - Earnings Account" and includes any other account designated in writing by the Bank to be the Earnings Account for the purposes of this Agreement;

**"Earnings Account Pledge"** means the pledge required to be executed hereunder by the Borrower over the Earnings Account in such form as the Bank may agree or require;

**"Encumbrance"** means any mortgage, charge, pledge, lien, hypothecation, assignment, title retention, preferential right, option, trust arrangement or security interest or any other encumbrance, security or arrangement conferring howsoever a priority of payment in respect of any obligation of any person;

**"Environmental Affiliate"** means any agent or employee of the Borrower, the Manager, or any other Group Member or any other person having a contractual relationship with the Borrower, the Manager or any other Group Member in connection with any Relevant Vessel or its operation or the carriage of cargo and/or passengers thereon and/or the provision of goods and/or services on or from any Relevant Vessel;



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**“Environmental Approval”** means any consent, authorisation, licence or approval of any governmental or public body or authorities or courts applicable to any Relevant Vessel or its operation or the carriage of cargo and/or passengers thereon and/or the provision of goods and/or services on or from any Relevant Vessel required under any Environmental Law;

**“Environmental Claim”** means (i) any claim by, or directive from, any applicable Government Entity alleging breach of, or non-compliance with, any Environmental Laws or Environmental Approvals or otherwise howsoever relating to or arising out of an Environmental Incident or (ii) any claim by any other third party howsoever relating to or arising out of an Environmental Incident (and, in each such case, “claim” shall include a claim for damages and/or direction for and/or enforcement relating to clean-up costs, removal, compliance, remedial action or otherwise) or (iii) any Proceedings arising from any of the foregoing;

**“Environmental Incident”** means, regardless of cause, (i) any actual or threatened discharge or release of Environmentally Sensitive Material from any Relevant Vessel; (ii) any incident in which Environmentally Sensitive Material is discharged or released from a vessel other than a Relevant Vessel which involves collision between a Relevant Vessel and such other vessel or some other incident of navigation or operation, in either case, where the Relevant Vessel, the Manager and/or the Borrower and/or the relevant Group Member and/or the relevant Operator are actually, contingently or allegedly at fault or otherwise howsoever liable (in whole or in part) or (iii) any incident in which Environmentally Sensitive Material is discharged or released from a vessel other than a Relevant Vessel and where such Relevant Vessel is actually or potentially liable to be arrested as a result and/or where the Manager and/or the Borrower and/or other Group Member and/or the relevant Operator are actually, contingently or allegedly at fault or otherwise howsoever liable;

**“Environmental Laws”** means all laws, regulations, conventions and agreements whatsoever relating to pollution, human or wildlife well-being or protection of the environment (including, without limitation, the United States Oil Pollution Act of 1990 and any comparable laws of the individual States of the USA);

**“Environmentally Sensitive Material”** means oil, oil products or any other products or substance which are polluting, toxic or hazardous or any substance the release of which into the environment is howsoever regulated, prohibited or penalised by or pursuant to any Environmental Law;

**“Event of Default”** means any of the events or circumstances listed in clause 10.1;

**“Execution Date”** means the date on which this Agreement has been executed by all the parties hereto;

**“Extended Employment Contract”** means any time charterparty, contract of affreightment or other contract of employment of the Vessel (including the entry of the Vessel in any pool) which has a tenor of not less than twelve (12) months (including any options to renew or extend such tenor);

**“Facility Period”** means the period starting on the first Drawdown Date and ending on such date as all obligations whatsoever of all of the Security Parties under or pursuant to the Security Documents whensoever arising, actual or contingent, have been irrevocably paid, performed and/or complied with;

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“**Flag State**” means the Republic of Panama or such other state or territory agreed by the Bank, at the request of the Borrower, as the “Flag State” of the Vessel for the purposes of the Security Documents;

“**General Assignment**” means, in respect of the Vessel, the deed of assignment of its earnings, insurances and requisition compensation executed or to be executed by the Borrower in favour of the Bank in such form as the Bank may require in its sole discretion;

“**Government Entity**” means any national or local government body, tribunal, court or regulatory or other agency and any organisation of which such body, tribunal, court or agency is a part or to which it is subject;

“**Group**” means the Corporate Guarantor and its subsidiaries but excluding any company which is publicly listed;

“**Group Member**” means any member of the Group;

“**IACS**” means the International Association of Classification Societies;

“**Indebtedness**” means any obligation howsoever arising (whether present or future, actual or contingent, secured or unsecured as principal, surety or otherwise) for the payment or repayment of money;

“**Indenture**” means the Indenture dated as of 28 January 2011 issued by the Corporate Guarantor, Navios Maritime Finance II (US) Inc. and the guarantors party thereto (including the Borrower) for 8 1/8% Senior Notes due on 15 February 2019;

“**Indenture Excerpt**” means the excerpt from the Indenture set out in Schedule 3;

“**Interest Payment Date**” means the last day of an Interest Period and, if an Interest Period is longer than 6 months, the date falling at the end of each successive period of 6 months during such Interest Period starting from its commencement;

“**Interest Period**” means each period for the calculation of interest in respect of the Loan ascertained in accordance with the provisions of clause 3;

“**ISM Code**” means in relation to its application to the Borrower, the Vessel and its operation:

- (a) ‘The International Management Code for the Safe Operation of Ships and for Pollution Prevention’, currently known or referred to as the ‘ISM Code’, adopted by the Assembly of the International Maritime Organisation by Resolution A.741(18) on 4 December 1993 and incorporated on 19 May 1994 into Chapter IX of the International Convention for Safety of Life at Sea 1974 (SOLAS 1974); and
- (b) all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or in the future issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code, including, without limitation, the ‘Guidelines on implementation or administering of the International Safety Management (ISM) Code by Administrations’ produced by the International Maritime Organisation pursuant to Resolution A.788(19) adopted on 25 December 1995,

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as the same may be amended, supplemented or replaced from time to time;

“**ISM Code Documentation**” means, in relation to each Vessel, the document of compliance (DOC) and safety management certificate (SMC) issued by a Classification Society pursuant to the ISM Code in relation to such Vessel within the periods specified by the ISM Code;

“**ISM SMS**” means the safety management system which is required to be developed, implemented and maintained under the ISM Code;

“**ISPS Code**” means the International Ship and Port Security Code of the International Maritime Organisation and includes any amendments or extensions thereto and any regulations issued pursuant thereto;

“**ISSC**” means an International Ship Security Certificate issued in respect of a Vessel pursuant to the ISPS Code;

“**LIBOR**” means, for a particular period, the rate equal to the offered quotation for deposits in USD in an amount comparable with the amount in relation to which LIBOR is to be determined for a period equal to, or as near as possible equal to, the relevant period which appears on Reuters Screen LIBOR01 at or about 11 a.m. on the second Banking Day before the first day of such period (and, for the purposes of this Agreement, “Reuters Screen LIBOR01” means the display designated as “LIBOR01” on the Reuters Service or such other page as may replace LIBOR01 on that service for the purpose of displaying rates comparable to that rate or on such other service as may be nominated by the British Bankers’ Association as the information vendor for the purpose of displaying the British Bankers’ Association Interest Settlement Rates for USD)) or (if the Bank is for any reason unable to ascertain the rate) the rate determined by the Bank to be that at which deposits in USD and in an amount comparable with the amount in relation to which LIBOR is to be determined and for a period equal to the relevant period were being offered by the Bank to prime banks in the London Interbank Market at or about 11 a.m. on the second Banking Day before the first day of such period

“**Loan**” means the principal amount borrowed by the Borrower under this Agreement or (as the context may require) the principal amount owing to the Bank under this Agreement at any relevant time;

“**MII & MAP Policy**” means a mortgagee’s interest and (if required by the Bank) pollution risks insurance policy (including additional perils (pollution) cover) in respect of the Vessel to be effected by the Bank to cover the Vessel as the same may be renewed or replaced annually thereafter and maintained throughout the Facility Period through such brokers, with such underwriters and containing such coverage as may be acceptable to the Bank in its sole discretion, insuring a sum of at least one hundred and twenty per cent (120%) of the Loan;

“**Management Agreement**” means, in respect of the Vessel, the agreement between the Borrower and the Manager, in a form previously approved in writing by the Bank;

“**Manager**” means Navios ShipManagement Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960 or any other person appointed by the Borrower, with the prior written consent of the Bank, as the manager of the Vessel;

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**“Manager’s Undertakings”** means the undertaking and assignment required to be executed respectively hereunder by the Manager in favour of the Bank in respect of the Vessel, in such form as the Bank may require in its sole discretion;

**“Margin”** means 3.25 per cent per annum;

**“month”** means a period beginning in one calendar month and ending in the next calendar month on the day numerically corresponding to the day of the calendar month on which it started, provided that (i) if the period started on the last Banking Day in a calendar month or if there is no such numerically corresponding day, it shall end on the last Banking Day in the such next calendar month and (ii) if such numerically corresponding day is not a Banking Day, the period shall end on the next following Banking Day in the same calendar month but if there is no such Banking Day it shall end on the preceding Banking Day and “months” and “monthly” shall be construed accordingly;

**“Mortgage”** means the first preferred mortgage of the Vessel required to be executed hereunder by the Borrower in such form as the Bank may agree or require;

**“Operator”** means any person who is from time to time during the Facility Period concerned in the operation of a Relevant Vessel and falls within the definition of “Company” set out in rule 1.1.2 of the ISM Code;

**“Permitted Encumbrance”** means any Encumbrance created pursuant to or expressly permitted by the Security Documents and Permitted Liens or otherwise permitted by the Bank;

**“Permitted Liens”** means any lien on the Vessel for master’s, officer’s or crew’s wages outstanding in the ordinary course of trading, any lien for salvage and any ship repairer’s or outfitter’s possessory lien for a sum not (except with the prior written consent of the Bank) exceeding the Casualty Amount (as defined in the relevant Mortgage);

**“Pertinent Jurisdiction”** means any jurisdiction in which or where any Security Party is incorporated, resident, domiciled, has a permanent establishment or assets, carries on, or has a place of business or is otherwise howsoever effectively connected;

**“Predelivery Security Assignment”** means, in respect of the Vessel, a deed of assignment of the Shipbuilding Contract and of the Refund Guarantee in respect thereof in such form as the Bank may agree or require;

**“Proceedings”** means any litigation, arbitration, legal action or complaint or judicial, quasi-judicial or administrative proceedings whatsoever arising or instigated by anyone in any court, tribunal, public office or other forum whatsoever and wheresoever (including, without limitation, any action for provisional or permanent attachment of any thing or for injunctive remedies or interim relief and any action instigated on an ex parte basis);

**“Receiving Bank”** means Wachovia Bank of New York, USA or such other bank as may from time to time be notified by the Bank to the Borrower;

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**“Registry”** means, in relation to each Vessel, the office of the registrar, commissioner or representative of the Flag State, who is duly empowered to register such Vessel, the Borrower’s title thereto and the relevant Mortgage under the laws and flag of the Flag State;

**“Relevant Vessel”** means the Vessel and any other ship from time to time (whether before or after the date of this Agreement) owned, managed or crewed by, or chartered to, any Group Member;

**“Repayment Dates”** means, subject to clause 6.3, each of the dates falling at six monthly intervals after the Drawdown Date in respect of the Advance referred to in Clause 2.3.1 (c), up to and including the date falling 120 months after such Drawdown Date;

**“Required Authorisation”** means any authorisation, consent, declaration, licence, permit, exemption, approval or other document, whether imposed by or arising in connection with any law, regulation, custom, contract, security or otherwise howsoever which must be obtained at any time from any person, Government Entity or central bank or other self-regulating or supra-national authority in order to enable the Borrower lawfully to draw the Loan and/or to enable any Security Party lawfully and continuously to continue its corporate existence and/or perform all its obligations whatsoever whensoever arising and/or grant security under the relevant Security Documents and/or to ensure the continuous validity and enforceability thereof;

**“Required Security Amount”** means the amount in USD (as certified by the Bank) which is at any relevant time (i) for five years following the Delivery Date, 115% of the Loan and (ii) thereafter 125% of the Loan;

**“Retention Account”** means, an interest bearing USD account in the name of the Borrower opened or (as the context may require) to be opened by the Borrower with the Bank and includes any sub-accounts thereof and any other account designated in writing by the Bank to be the Retention Account for the purposes of this Agreement;

**“Retention Account Pledge”** means the pledge required to be executed hereunder by the Borrower over the Retention Account in such form as the Bank may agree or require;

**“Retention Amount”** means, in relation to any Retention Date, such sum as shall be the aggregate of:

- (c) one-sixth (1/6th) of the repayment instalment falling due for payment pursuant to clause 4.1 (as the same may have been reduced by any prepayment) on the next Repayment Date after the relevant Retention Date; and
- (d) the applicable fraction (as hereinafter defined) of the aggregate amount of interest falling due for payment during and at the end of each Interest Period in respect thereof current at the relevant Retention Date and, for this purpose, the expression **“applicable fraction”** in relation to each Interest Period shall mean a fraction having a numerator of one and a denominator equal to the number of Retention Dates falling within the relevant Interest Period;

**“Retention Dates”** means the date falling thirty (30) days after the Delivery Date and each of the dates falling at monthly intervals after such date and prior to the final Repayment Date;

**“Security Documents”** means this Agreement, the Predelivery Security Assignment, the Mortgage, the General Assignment, the Charter Assignment, the Charter Insurance Assignment, the Earnings Account Pledge, the Retention Account Pledge, the Corporate Guarantee, the Managers Undertaking and any other documents as may have been or shall from time to time after the date of this Agreement be executed in favour of the Bank to guarantee and/or to govern and/or to secure payment of all or any part of the Loan, interest thereon and other moneys from time to time owing by the Borrower pursuant to this Agreement (whether or not any such document also guarantees and/or secures moneys from time to time owing pursuant to any other document or agreement);

**“Security Party”** means the Borrower, the Corporate Guarantor, the Manager or any other person who may at any time be a party to any of the Security Documents (other than the Bank);

**“Security Value”** means the amount in USD (as certified by the Bank) which, at any relevant time, is the aggregate of (i) the Valuation Amount of the Vessel as most recently determined in clause 8.2.2 and (ii) the market value of any additional security (or, in the case of cash Dollars, its face value) the at that time held by the Bank and provided under clause 8.2.1 or otherwise;

**“Shareholder”** means, Anemos Maritime Holdings Inc., a company incorporated in the Marshall Islands and having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

**“Ship Security Documents”** means in relation to each Vessel, the Mortgage, the General Assignment and the Manager’s Undertaking in respect of such Vessel;

**“Taxes”** includes all present and future income, corporation, capital or value-added taxes and all stamp and other taxes and levies, imposts, deductions, duties, charges and withholdings whatsoever together with interest thereon and penalties in respect thereto, if any, and charges, fees or other amounts made on or in respect thereof (and “Taxation” shall be construed accordingly);

**“Total Loss”** means, in respect of the Vessel:

- (e) actual, constructive, compromised, agreed or arranged total loss of such Vessel; or
- (f) Compulsory Acquisition; or
- (g) any hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of such Vessel not falling within the definition of Compulsory Acquisition by any Government Entity, or by persons allegedly acting or purporting to act on behalf of any Government Entity, unless such Vessel be released and restored to the relevant Owner within ninety (90) days after such incident;

**“Transferee”** is defined in clause 15.4; and

**“U.S.”** means the United States of America;

**“Unlawfulness”** means any event or circumstance which either is or, as the case may be, might in the reasonable opinion of the Bank become the subject of a notification by the Bank to the Borrower under clause 12.1; and

“**Underlying Documents**” means, together, the Purchase Agreement, the Shipbuilding Contract, the Refund Guarantee, any Extended Employment Contracts and the Management Agreement;

“**Valuation Amount**” means the value of the Vessel as most recently determined under clause 8.2.2; and

“**Valuation (charter-free) Amount**” means the value of the Vessel as most recently determined under clause 8.2.2, but without taking into account any charterparty to which the Vessel is subject.

Words and expressions defined in Schedule 4 (Vessel Details) shall have the meanings given to them therein as if the same were set out in full in this clause 1.2.

**1.3 Construction**

In this Agreement, unless the context otherwise requires:

- 1.3.1 clause headings and the index are inserted for convenience of reference only and shall be ignored in the construction of this Agreement;
- 1.3.2 references to clauses and schedules are to be construed as references to clauses of, and schedules to, this Agreement and references to this Agreement include its schedules;
- 1.3.3 references to (or to any specified provision of) this Agreement or any other document shall be construed as references to this Agreement, that provision or that document as in force for the time being and as duly amended and/or supplemented and/or novated;
- 1.3.4 references to a “regulation” include any present or future regulation, rule, directive, requirement, request or guideline (whether or not having the force of law) of any Government Entity, central bank or any self-regulatory or other supra-national authority;
- 1.3.5 references to any person in or party to this Agreement shall include reference to such person’s lawful successors and assigns and references to the Bank shall also include a Transferee;
- 1.3.6 words importing the plural shall include the singular and vice versa;
- 1.3.7 references to a time of day are, unless otherwise stated, to London time;
- 1.3.8 references to a person shall be construed as references to an individual, firm, company, corporation or unincorporated body of persons or any Government Entity;
- 1.3.9 references to a “guarantee” include references to an indemnity or any other kind of assurance whatsoever (including, without limitation, any kind of negotiable instrument, bill or note) against financial loss or other liability including, without limitation, an obligation to purchase assets or services as a consequence of a default by any other person to pay any Indebtedness and “guaranteed” shall be construed accordingly;
- 1.3.10 references to any statute or other legislative provision are to be construed as references to any such statute or other legislative provision as the same may be re enacted or modified or substituted by any subsequent statute or legislative provision (whether before or after the date hereof) and shall include any regulations, orders, instruments or other subordinate legislation issued or made under such statute or legislative provision;

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- 1.3.11 a certificate by the Bank as to any amount due or calculation made or any matter whatsoever determined in connection with this Agreement shall be conclusive and binding on the Borrower except for manifest error;
- 1.3.12 if any document, term or other matter or thing is required to be approved, agreed or consented to by the Bank such approval, agreement or consent must be obtained in writing unless the contrary is stated;
- 1.3.13 time shall be of the essence in respect of all obligations whatsoever of the Borrower under this Agreement, howsoever and whensoever arising; and
- 1.3.14 the words “other” and “otherwise” shall not be construed *eiusdem generis* with any foregoing words where a wider construction is possible.

1.4 **Accounting Terms and references to currencies**

All accounting terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted international accounting principles (or such other accounting principles as the Bank deems appropriate).

1.5 **Contracts (Rights of Third Parties Act) 1999**

Except for clause 18.6.4 no part of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

**2 THE BANK’S COMMITMENT, ADVANCE AND USE OF PROCEEDS**

2.1 **The Commitment**

In reliance upon each of the representations and warranties in clause 7, the Bank agrees to pay to the Builder by way of loan to the Borrower on the terms of this Agreement the principal sum of up to USD23,000,000 in up to three Advances.

2.2 **Advance**

On the terms and subject to the conditions of this Agreement, the Loan shall be advanced in up to three (3) Advances on the relevant Drawdown Dates following receipt by the Bank from the Borrower of Drawdown Notices not later than 10 a.m. on the second Banking Day before each proposed Drawdown Date. A Drawdown Notice shall be effective on actual receipt by the Bank and, once given, shall, subject as provided in clause 3.6.1, be irrevocable.

2.3 **Amount**

2.3.1 The principal amount specified in each Drawdown Notice for borrowing on the Drawdown Dates shall, subject to the terms of this Agreement, not exceed:

- (a) USD10,170,000 in respect of the steel cutting and keel laying instalments payable by the Borrower to the Builder under the Shipbuilding Contract after the Refund Guarantee has been issued;
- (b) USD6,415,000 in respect of the launching instalment payable by the Borrower to the Builder under the Shipbuilding Contract after the Refund Guarantee has been issued;



- (c) the lesser of (i) USD6,415,000 and (ii) such amount as when added to the already drawn Advances will be 65% of the Valuation (charter-free) Amount of the Vessel as at her Delivery Date.

**2.4 Availability**

Upon receipt of a Drawdown Notice complying with the terms of this Agreement the Bank shall, subject to the provisions of clause 9, make each Advance available to the Borrower on the relevant Drawdown Date in accordance with clause 2.2. The Borrower acknowledges that payment of each Advance to the Builder in accordance with clause 2.2 shall satisfy the obligation of the Bank to lend that part of the Commitment to the Borrower under this Agreement.

**2.5 Cancellation**

If any part of the Loan is not drawn down by the end of the Drawdown Period, the Commitment shall thereupon be automatically cancelled and the Bank shall have no further obligation under this Agreement.

**2.6 Use of Proceeds**

Without prejudice to the Borrower's obligations under clause 8.1.4, the Bank shall have no responsibility for the Borrower's use of the proceeds of the Loan.

**3 INTEREST AND INTEREST PERIODS**

**3.1 Normal interest rate**

The Borrower agrees to pay interest on the Loan in respect of each Interest Period relating thereto on each Interest Payment Date (or, in the case of Interest Periods of more than six (6) months, by instalments, the first six (6) months from the commencement of the Interest Period and the subsequent instalments at intervals of six (6) months) at the rate per annum determined by the Bank to be the aggregate of (a) the Margin and (b) LIBOR for such period.

**3.2 Selection of Interest Periods**

The Borrower may by notice received by the Bank not later than 10 a.m. on the second Banking Day before the start of each Interest Period request that such Interest Period shall have a length of three (3), six (6) or twelve (12) months or such other longer period as the Borrower may select and the Bank may, subject to the same being available in the London Interbank Market, agree.

**3.3 Determination of Interest Periods**

The length of each Interest Period shall be as requested by the Borrower under clause 3.2 but so that:

- 3.3.1 the first Interest Period shall start on the Drawdown Date in respect of the first Advance and each subsequent Interest Period shall start on the last day of the previous Interest Period;
- 3.3.2 the first Interest Period in respect of each subsequent Advance shall commence on its Drawdown Date and terminate simultaneously with the Interest Period which is then current;

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3.3.3 if any Interest Period would otherwise overrun a Repayment Date, then, in the case of the last Repayment Date, such Interest Period shall end on such Repayment Date, and in the case of any other Repayment Date the Loan shall be divided into parts so that there is one part in the amount of the repayment instalment due on each Repayment Date falling in that Interest Period and having an Interest Period ending on the relevant Repayment Date and another part consisting of the balance of the Loan having an Interest Period ascertained in accordance with the other provisions of this clause 3; and

3.3.4 if the Borrower fails to specify the length of an Interest Period in accordance with the provisions of clause 3.2 and this clause 3.3 such Interest Period shall last three months or such other period as complies with this clause 3.3.

3.4 **Default interest**

If the Bank fails to receive any sum whatsoever on its due date for payment under any of the Security Documents, the Borrower must pay interest on such sum on demand from the due date up to the date of actual payment (as well after as before judgment) at a rate determined by the Bank under this clause 3.4. The period starting on such due date and ending on such date of payment shall be divided into successive periods of not more than three (3) months as selected by the Bank each of which (other than the first, which shall start on such due date) shall start on the last day of the preceding such period. The rate of interest applicable to each such period shall be the aggregate (as determined by the Bank) of (a) two and a half (2.5) per cent per annum, (b) the Margin and (c) LIBOR for such period. Such interest shall be due and payable on the last day of each such period as determined by the Bank and each such day shall be treated as an Interest Payment Date, provided that if such unpaid sum is an amount of principal which became due and payable, by reason of a declaration by the Bank under clause 10.2 or a prepayment pursuant to clauses 4.3, 4.4, 8.2 or 12.1, on a date other than an Interest Payment Date relating thereto, the first such period selected by the Bank shall be of a length equal to the period between the due date of such principal sum and such Interest Payment Date and interest shall be payable on such principal sum during such period at a rate of two and a half (2.5) per cent above the rate applicable immediately before it shall have become so due and payable. If, for the reasons specified in clause 3.6.1, the Bank is unable to determine a rate in accordance with the provisions of this clause 3.4, interest on any sum not paid on its due date for payment shall be calculated at a rate determined by the Bank to be two and a half (2.5) per cent per annum above the aggregate of the Margin and the cost of funds to the Bank compounded at such intervals as the Bank selects.

3.5 **Notification of Interest Periods and interest rate**

The Bank agrees to notify the Borrower promptly of the length of each Interest Period and of each rate of interest determined by it under this clause 3.

3.6 **Market disruption; non-availability**

3.6.1 Whenever, at any time prior to the start of any Interest Period, the Bank determines:

- (a) that adequate and fair means do not exist for determining LIBOR during such Interest Period; or
- (b) that deposits in USD are not available to the Bank in the London Interbank Market in its ordinary course of business in sufficient amounts to fund the Loan for such Interest Period;

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the Bank shall promptly give notice (a "Determination Notice") thereof to the Borrower. A Determination Notice shall give brief details of the circumstances giving rise to its issue. After the giving of any Determination Notice any undrawn amount of the Commitment may not be borrowed until notice to the contrary is given to the Borrower by the Bank;

3.6.2 upon a Determination Notice being given, the Borrower and the Bank shall discuss the same in order to agree an alternative basis for maintaining the Loan, but if they are unable to agree an alternative basis within 30 days of the date of the Determination Notice, then 40 after the Determination Notice being given, the Bank shall certify an alternative (such basis, or if agreed, the basis agreed by the Bank and the Borrower, the "Substitute Basis") for maintaining the Loan. The Substitute Basis may include alternative interest periods, alternative currencies or alternative rates of interest but must include a margin above the cost of funds to the Bank equivalent to the Margin. Each Substitute Basis certified to the Borrower or agreed shall take effect in accordance with its terms from the date specified in the Determination Notice until such time as the Bank notifies the Borrower that none of the circumstances specified in clause 3.6.1 continues to exist whereupon the normal interest rate fixing provisions of this Agreement shall again apply. If the Borrower does not agree with any Substitute Basis certified by the Bank if there is no agreement between the parties, then the Borrower may prepay the Loan or the relevant part thereof, and the terms of Clause 4.5 and 4.6 shall apply to any such prepayment

#### **4 REPAYMENT AND PREPAYMENT**

##### **4.1 Repayment**

Subject as otherwise provided in this Agreement, the Borrower must repay the Loan by 20 instalments, one such instalment to be repaid on each of the Repayment Dates and the balloon instalment referred to hereafter will also be repaid on the relevant final Repayment Date. Subject to the provisions of this Agreement, the amount of:

- (i) the first 20 instalments will be USD750,000 each; and
- (ii) the balloon instalment will be USD8,000,000.

If the Commitment is not drawn in full, the amount of each repayment instalment (including the balloon instalment) shall be reduced proportionately.

##### **4.2 Voluntary prepayment**

The Borrower may prepay the Loan in whole or part (being USD500,000 or any larger sum which is a whole multiple of USD500,000) on any Interest Payment Date relating to the part of the Loan to be repaid without premium or penalty.

##### **4.3 Mandatory Prepayment on Total Loss**

On the date falling ninety (90) days after that on which the Vessel became a Total Loss or, if earlier, on the date upon which the relevant insurance proceeds are, or Requisition Compensation (as defined in the Mortgage for such Vessel) is, received by the Borrower (or the Bank pursuant to the Security Documents), the Borrower must prepay the Loan.

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#### 4.3.1 Interpretation

For the purpose of this Agreement, a Total Loss shall be deemed to have occurred:

- (a) in the case of an actual total loss of the Vessel, on the actual date and at the time such Vessel was lost or, if such date is not known, on the date on which such Vessel was last reported;
- (b) in the case of a constructive total loss of the Vessel, upon the date and at the time notice of abandonment of the ship is given to the then insurers of such Vessel (provided a claim for total loss is admitted by such insurers) or, if such insurers do not immediately admit such a claim, at the date and at the time at which either a total loss is subsequently admitted by such insurers or a total loss is subsequently adjudged by a competent court of law or arbitration tribunal to have occurred;
- (c) in the case of a compromised or arranged total loss of the Vessel, on the date upon which a binding agreement as to such compromised or arranged total loss has been entered into by the then insurers of such Vessel;
- (d) in the case of Compulsory Acquisition, on the date upon which the relevant requisition of title or other compulsory acquisition occurs; and
- (e) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Vessel (other than within the definition of Compulsory Acquisition) by any Government Entity, or by persons allegedly acting or purporting to act on behalf of any Government Entity, which deprives the Borrower of the use of such Vessel for more than ninety (90) days, upon the expiry of the Relevant Period where "Relevant Period" means, for the purposes of this clause 4.3.1(e), either (i) the period of ninety (90) days after the date upon which the relevant incident occurred or, (ii) if relevant underwriters confirm in writing (in customary terms) prior to the end of such ninety (90) day period that such capture, seizure, detention or confiscation will be covered by the Borrower's war risks insurance if continuing for a further period exceeding ten (10) calendar months, the shorter of twelve (12) months and such period at the end of which cover is confirmed to attach.

#### 4.4 **Mandatory prepayment on sale of the Vessel**

On the date of completion of the sale of the Vessel the Borrower must prepay the Loan.

#### 4.5 **Amounts payable on prepayment**

Any prepayment of all or part of the Loan under this Agreement shall be made together with:

- 4.5.1 accrued interest on the amount to be prepaid to the date of such prepayment;
- 4.5.2 any additional amount payable under clauses 6.6 or 11.2; and
- 4.5.3 all other sums payable by the Borrower to the Bank under this Agreement or any of the other Security Documents including, without limitation, any accrued commitment commission payable under clause 5.1 and any Break Costs.

#### 4.6 **Notice of prepayment; reduction of repayment instalments**

- 4.6.1 No prepayment may be effected under clause 4.2 unless the Borrower shall have given the Bank at least fifteen (15) days' prior written notice of their intention to make such prepayment. Every notice of prepayment shall be effective only on actual receipt by the Bank, shall be irrevocable, shall specify the amount to be prepaid and shall oblige the Borrower to make such prepayment on the date specified.

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- 4.6.2 Any amounts prepaid pursuant to clause 4.2 shall be applied against the Loan in reducing the Balloon Instalment and thereafter the repayment instalments in inverse order of their maturity.
- 4.6.3 The Borrower may not prepay any part of the Loan except as expressly provided in this Agreement.
- 4.6.4 No amount prepaid may be reborrowed.

## **5 COMMITMENT COMMISSION, FEES AND EXPENSES**

### **5.1 Fees**

The Borrower agrees to pay to the Bank:

- 5.1.1 on the date of this Agreement, a non-refundable arrangement fee of USD276,000; and
- 5.1.2 on the date of this Agreement and on each of the dates falling at three (3) monthly intervals commencing on the date falling three (3) months after the date of this Agreement until the end of the Drawdown Period, commitment commission computed from 29 December 2011 (in the case of the first payment of commission) and from the date of the preceding payment of commission (in the case of each subsequent payment) at the rate of one per cent. (1.2%) per annum on the daily undrawn maximum available Commitment.

The fee referred to in clause 5.1.1 and the commitment commission referred to in clause 5.1.2 must be paid by the Borrower to the Bank regardless of whether any part of the Commitment is ever advanced.

### **5.2 Expenses**

The Borrower agrees to reimburse the Bank on a full indemnity basis on demand for all expenses and/or disbursements whatsoever certified by the Bank as having been incurred by it from time to time and at any time:

- 5.2.1 in connection howsoever with the negotiation, preparation, execution and, where relevant, registration of the Security Documents and of any contemplated or actual amendment, indulgence or the granting of any waiver or consent howsoever in connection with any of the Security Documents; and
- 5.2.2 in contemplation or furtherance of, or otherwise howsoever in connection with, the exercise or enforcement of, or preservation of any rights, powers, remedies or discretion under any of the Security Documents or any amendment thereto or consideration of the Bank's rights thereunder or any action proposed or taken with interest at the rate referred to in clause 3.4 from the date on which such expenses and/or disbursements were incurred to the date of payment (as well after as before judgment).

### **5.3 Value Added Tax**

All fees and expenses payable under to this clause 5 must be paid with value added tax or any similar tax (if any) properly chargeable thereon. Any value added tax chargeable in respect of any services supplied by the Bank under this Agreement must, on delivery of the value added tax invoice, be paid in addition to any sum agreed to be paid hereunder.

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5.4 **Stamp and other duties**

The Borrower must pay all stamp, documentary, registration or other like duties or taxes (including any duties or taxes payable by the Bank) imposed on or in connection with any of the Shipbuilding Contract, the Management Agreement, the Security Documents or the Loan and agree to indemnify the Bank against any liability arising by reason of any delay or omission by the Borrower to pay such duties or taxes.

**6 PAYMENTS AND TAXES; ACCOUNTS AND CALCULATIONS**

6.1 **No set-off or counterclaim**

All payments to be made by the Borrower under any of the Security Documents must be made in full, without any set-off or counterclaim whatsoever and, subject to clause 6.6, free and clear of any deductions or withholdings, in USD not later than 11 a.m. London time on the due date to the account of the Bank at the Receiving Bank or to such other account at such other bank in such place as the Bank may from time to time notify to the Borrower.

6.2 **Payment by the Bank**

The proceeds of the Loan to be advanced by the Bank to the Borrower under this Agreement must be remitted in USD on the relevant Drawdown Date to the account or accounts specified in the relevant Drawdown Notice.

6.3 **Non-Banking Days**

When any payment under any of the Security Documents would otherwise be due on a day which is not a Banking Day, the due date for payment shall be extended to the next following Banking Day unless such Banking Day falls in the next calendar month in which case payment shall be made on the immediately preceding Banking Day.

6.4 **Calculations**

All interest and other payments of an annual nature under any of the Security Documents shall accrue from day to day and be calculated on the basis of actual days elapsed and a 360 day year.

6.5 **Currency of account**

If any sum due from the Borrower under any of the Security Documents, or under any order or judgment given or made in relation thereto or for any other reason whatsoever, must be converted from the currency ("the first currency") in which the same is payable thereunder into another currency ("the second currency") for the purpose of (i) making or filing a claim or proof against the Borrower, (ii) obtaining an order or judgment in any court or other tribunal or (iii) enforcing any order or judgment given or made in relation thereto, the Borrower undertakes to indemnify and hold harmless the Bank from and against any loss suffered as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (b) the rate or rates of exchange at which the Bank may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in

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whole or in part, of any such order, judgment, claim or proof. Any amount due from the Borrower under this clause 6.5 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Security Documents and the term “rate of exchange” includes any premium and costs of exchange payable in connection with the purchase of the first currency with the second currency.

**6.6 Grossing-up for Taxes**

If at any time the Borrower must make any deduction or withholding in respect of Taxes from any payment due under any of the Security Documents, the sum due from the Borrower in respect of such payment must then be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Bank receives on the due date for such payment (and retains, free from any liability in respect of such deduction or withholding), a net sum equal to the sum which it would have received had no such deduction or withholding been made and the Borrower agrees to indemnify the Bank on demand against any losses or costs certified by the Bank to have been incurred by it by reason of any failure of the Borrower to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment. The Borrower must promptly deliver to the Bank any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

**6.7 Loan account**

The Bank agrees to maintain a control account showing the Loan and other sums owing by the Borrower under the Security Documents and all payments in respect thereof being made from time to time. The control account shall, in the absence of manifest error, be conclusive as to the amount from time to time owing by the Borrower under the Security Documents.

**6.8 Bank may assume receipt**

Where any sum is to be paid under the Security Documents to the Bank, the Bank may assume that the payment will be made when due and the Bank may (but shall not be obliged to) make such sum available to the person so entitled. If it proves to be the case that such payment was not made to the Bank, then the person to whom such sum was so made available must on request refund such sum to the Bank together with interest thereon sufficient to compensate the Bank for the cost of making available such sum up to the date of such repayment and the person by whom such sum was payable must indemnify the Bank for any and all loss or expense which the Bank may sustain or incur as a consequence of such sum not having been paid on its due date.

**6.9 Partial payments**

If, on any date on which a payment is due to be made by the Borrower under any of the Security Documents, the amount received by the Bank from the Borrower falls short of the total amount of the payment due to be made by the Borrower on such date then, without prejudice to any rights or remedies available to the Bank under any of the Security Documents, the Bank must apply the amount actually received from the Borrower in or towards discharge of the obligations of the Borrower under the Security Documents in the following order, notwithstanding any appropriation made, or purported to be made, by the Borrower:

6.9.1 first, in or towards payment, on a pro-rata basis, of any unpaid costs and expenses of the Bank under any of the Security Documents;

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- 6.9.2 secondly, in or towards payment of any fees payable to the Bank under, or in relation to, the Security Documents which remain unpaid;
- 6.9.3 thirdly, in or towards payment to the Bank of any accrued interest owing in respect of the Loan which shall have become due under any of the Security Documents but remains unpaid;
- 6.9.4 fourthly, in or towards payment to the Bank of any principal in respect of the Loan which shall have become due but remains unpaid;
- 6.9.5 fifthly, in or towards payment to the Bank for any loss suffered by reason of any such payment in respect of principal not being effected on an Interest Payment Date relating to the part of the Loan repaid and which amounts are so payable under this Agreement; and
- 6.9.6 sixthly, in or towards payment to the relevant person of any other sum which shall have become due under any of the Security Documents but remains unpaid (and, if more than one such sum so remains unpaid, on a pro rata basis).
- The order of application set out in clauses 6.9.1 to 6.9.6 may be varied by the Bank without any reference to, or consent or approval from, the Borrower.

## **7 REPRESENTATIONS AND WARRANTIES**

### **7.1 Continuing representations and warranties**

The Borrower represents and warrants to the Bank that:

#### **7.1.1 Due incorporation**

each of the Security Parties is duly incorporated and validly existing in good standing, under the laws of its respective country of incorporation, in each case, as a corporation and has power to carry on its respective businesses as it is now being conducted and to own their respective property and other assets to which it has unencumbered legal and beneficial title except as disclosed to the Bank in writing;

#### **7.1.2 Corporate power**

each of the Security Parties has power to execute, deliver and perform its obligations and, as the case may be, to exercise its rights under the Underlying Documents and the Security Documents to which it is a party; all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and on the execution of the Security Documents performance of the same and no limitation on the powers of the Borrower to borrow or any other Security Party to howsoever incur liability and/or to provide or grant security will be exceeded as a result of borrowing any part of the Loan;

#### **7.1.3 Binding obligations**

the Underlying Documents and the Security Documents, when executed, will constitute valid and legally binding obligations of the relevant Security Parties enforceable in accordance with their respective terms;



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7.1.4 No conflict with other obligations

the execution and delivery of, the performance of their obligations under, and compliance with the provisions of, the Underlying Documents and the Security Documents by the relevant Security Parties will not (i) contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which any Security Party or other member of the Group is subject, (ii) conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which any Security Party or any other member of the Group is a party or is subject or by which it or any of its property is bound, (iii) contravene or conflict with any provision of the constitutional documents of any Security Party or (iv) result in the creation or imposition of, or oblige any of the Security Parties to create, any Encumbrance (other than a Permitted Encumbrance) on any of the undertakings, assets, rights or revenues of any of the Security Parties;

7.1.5 No default

no Default has occurred;

7.1.6 No litigation or judgments

no Proceedings are current, pending or, to the knowledge of the officers of the Borrower, threatened against any of the Security Parties or any other Group Members or their assets which could have a material adverse effect and there exist no judgments, orders, injunctions which would materially affect the obligations of the Security Parties under the Security Documents;

7.1.7 No filings required

except for the registration of the Mortgages in the relevant register under the laws of the relevant Flag State through the relevant Registry, it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of any of the Underlying Documents or any of the Security Documents that they or any other instrument be notarised, filed, recorded, registered or enrolled in any court, public office or elsewhere in any Pertinent Jurisdiction or that any stamp, registration or similar tax or charge be paid in any Pertinent Jurisdiction on or in relation to any of the Underlying Documents or the Security Documents and each of the Underlying Documents and the Security Documents is in proper form for its enforcement in the courts of each Pertinent Jurisdiction;

7.1.8 Required Authorisations and legal compliance

all Required Authorisations have been obtained or effected and are in full force and effect and no Security Party has in any way contravened any applicable law, statute, rule or regulation (including all such as relate to money laundering);

7.1.9 Choice of law

the choice of English law to govern the Underlying Documents and the Security Documents (other than the Mortgages, the Earnings Account Pledge and the Retention Account Pledge), the choice of the law of the Flag State to govern the Mortgages, the choice of Greek law to govern the Earnings Account Pledge and the Retention Account Pledge and the submissions by the Security Parties to the jurisdiction of the English courts and the obligations of such Security Parties associated therewith, are valid and binding;

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- 7.1.10 No immunity  
no Security Party nor any of their assets is entitled to immunity on the grounds of sovereignty or otherwise from any Proceedings whatsoever;
- 7.1.11 Financial statements correct and complete  
the latest audited and unaudited consolidated financial statements of the Corporate Guarantor in respect of the relevant financial year as delivered to the Bank and present or will present fairly and accurately the financial position of the Corporate Guarantor and the consolidated financial position of the Group as at the date thereof and the results of the operations of the Corporate Guarantor and the consolidated results of the operations of the Group for the financial year ended on such date and, as at such date, neither the Corporate Guarantor nor any of its subsidiaries (excluding any publicly listed subsidiaries) had any significant liabilities (contingent or otherwise) or any unrealised or anticipated losses which are not disclosed by, or reserved against or provided for in, such financial statements;
- 7.1.12 Pari passu  
the obligations of the Borrower under this Agreement are direct, general and unconditional obligations of the Borrower and rank at least pari passu with all other present and future unsecured and unsubordinated Indebtedness of the Borrower except for obligations which are mandatorily preferred by operation of law and not by contract;
- 7.1.13 Information  
all information, whatsoever provided by any Security Party to the Bank in connection with the negotiation and preparation of the Security Documents or otherwise provided hereafter in relation to, or pursuant to this Agreement is, or will be, true and accurate in all material respects and not misleading, does or will not omit material facts and all reasonable enquiries have been, or shall have been, made to verify the facts and statements contained therein; there are, or will be, no other facts the omission of which would make any fact or statement therein misleading;
- 7.1.14 No withholding Taxes  
no Taxes anywhere are imposed whatsoever by withholding or otherwise on any payment to be made by any Security Party under the Underlying Documents or the Security Documents to which such Security Party is or is to be a party or are imposed on or by virtue of the execution or delivery by the Security Parties of the Underlying Documents or the Security Documents or any other document or instrument to be executed or delivered under any of the Security Documents;
- 7.1.15 Indenture  
The entry by the Borrower into this Agreement, and their borrowing of the Loan hereunder, and the execution by the Corporate Guarantor of the Corporate Guarantee do not breach Section 4.10 or any other provision of the Indenture,;
- 7.1.16 Use of proceeds  
the Borrower shall apply the Loan only for the purposes specified in clause 2.1;

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7.1.17 The Vessel

throughout the Facility Period, the Vessel will, following its Delivery date, be :

- (a) in the absolute sole, legal and beneficial ownership of the Borrower;
- (b) registered through the offices of the relevant Registry as a ship under the laws and flag of the relevant Flag State;
- (c) in compliance with the ISM Code and the ISPS Code and operationally seaworthy and in every way fit for service;
- (d) in good and sea-worthy and cargo-worthy condition; and
- (e) classed with the relevant Classification free of all outstanding requirements and recommendations of the relevant Classification Society.

7.1.18 Vessel's employment

except with the prior written consent of the Bank, there will not be any agreement or arrangement whereby the Earnings (as defined in the relevant Ship Security Documents) of the Vessel may be shared or pooled howsoever with any other person;

7.1.19 Freedom from Encumbrances

neither the Vessel nor its Earnings, Insurances or Requisition Compensation (each as defined in the relevant Ship Security Documents) nor the Earnings Account or the Retention Account nor any Extended Employment Contract in respect of the Vessel nor any other properties or rights which are, or are to be, the subject of any of the Security Documents nor any part thereof will be subject to any Encumbrance except Permitted Encumbrances;

7.1.20 Environmental Matters

except as may already have been disclosed by the Borrower in writing to, and acknowledged and accepted in writing by, the Bank:

- (a) the Borrower and, to the best of the Borrower's knowledge and belief (having made due enquiry), their respective Environmental Affiliates, have complied with the provisions of all Environmental Laws;
- (b) the Borrower and, to the best of the Borrower's knowledge and belief (having made due enquiry), their respective Environmental Affiliates have obtained all Environmental Approvals and are in compliance with all such Environmental Approvals;
- (c) no Environmental Claim has been made or threatened or pending against the Borrower, or, to the best of the Borrower's knowledge and belief (having made due enquiry), any of their respective Environmental Affiliates; and
- (d) there has been no Environmental Incident;

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7.1.21 ISM and ISPS Code

each of the Borrower has complied with and continues to comply with and has procured that the Manager has complied with and continues to comply with the ISM Code, the ISPS Code and all other statutory and other requirements relative to its business and in particular the Borrower or the Manager has obtained and maintains a valid DOC and SMC for the Vessel and that it and the Manager has implemented and continues to implement an ISM SMS;

7.1.22 Copies true and complete

the Certified Copies or originals of the Underlying Documents delivered or to be delivered to the Bank pursuant to clause 8.1 are, or will when delivered be, true and complete copies or, as the case may be, originals of such documents; and such documents constitute valid and binding obligations of the parties thereto enforceable in accordance with their respective terms and there have been no amendments or variations thereof or defaults thereunder;

7.1.23 the Borrower are the ultimate beneficiaries of the Loan;

7.1.24 no Security Party has incurred any Indebtedness save under the Indenture, this Agreement or as otherwise disclosed by the Corporate Guarantor in its filings to the SEC from time to time;

7.1.25 the Corporate Guarantor and the Borrower have filed all tax and other fiscal returns required to be filed by any tax authority to which they are subject;

7.1.26 the Borrower does not have an office in England.

**7.2 Repetition of representations and warranties**

On each day throughout the Facility Period the Borrower shall be deemed to repeat the representations and warranties in clause 7 updated mutatis mutandis as if made with reference to the facts and circumstances existing on such day.

**8 UNDERTAKINGS**

**8.1 General**

The Borrower undertakes with the Bank that, from the Execution Date until the end of the Facility Period, they will:

**8.1.1 Notice of Default and Proceedings**

promptly inform the Bank of (a) any Default (including the occurrence of any Event of Default under (and as defined in) the Indenture, in which case the Borrower shall also provide to the Bank copies of all demands or notices made in connection therewith) and of any other circumstances or occurrence which might adversely affect the ability of any Security Party to perform its obligations under any of the Security Documents and (b) as soon as the same is instituted or threatened, details of any Proceedings involving any Security Party which could have a material adverse effect on that Security Party and/or the operation of the Vessel (including, but not limited to any Total Loss of the Vessel or the occurrence of any Environmental Incident) and will from time to time, if so requested by the Bank, confirm to the Bank in writing that, save as otherwise stated in such confirmation, no Default has occurred and is continuing and no such Proceedings are on foot or threatened;

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8.1.2 Authorisation

obtain or cause to be obtained, maintain in full force and effect and comply fully with all Required Authorisations, provide the Bank with Certified Copies of the same and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under any applicable law (whether or not in the Pertinent Jurisdiction) for the continued due performance of all the obligations of the Security Parties under each of the Security Documents;

8.1.3 Corporate Existence

ensure that each Security Party maintains its corporate existence as a body corporate duly organised and validly existing and in good standing under the laws of the Pertinent Jurisdiction;

8.1.4 Use of proceeds

use the Advances exclusively for the purposes specified in clauses 1.1 and 2.1;

8.1.5 Pari passu

ensure that their obligations under this Agreement shall at all times rank at least pari passu with all their other present and future unsecured and unsubordinated Indebtedness with the exception of any obligations which are mandatorily preferred by law and not by contract;

8.1.6 Financial statements

provide to the Bank:

- (a) within 75 days after the end of each of the first three fiscal quarters in each fiscal year, quarterly reports on US Form 6-K (or any successor form) in respect of the Corporate Guarantor containing unaudited financial statements (including a balance sheet and statement of income, changes in stockholders' equity and cash flow) and a management's discussion and analysis of financial condition and results of operations (or equivalent disclosure) for and as of the end of such fiscal quarter (with comparable financial statements for the corresponding fiscal quarter of the immediately preceding fiscal year);
- (b) within 150 days after the end of each fiscal year of the Corporate Guarantor, an annual report on US Form 20-F (or any successor form) in respect of the Corporate Guarantor containing the information required to be contained therein for such fiscal year (starting with the financial year ending on 31 December 2011); and
- (c) at or prior to such times as would be required to be filed or furnished to the SEC (as defined in the Indenture) (hereinafter, the "SEC") if the Corporate Guarantor was then a "foreign private issuer" subject to Section 13(a) or 15(d) of the US Exchange Act, all such other reports and information that the Corporate Guarantor would have been required to file pursuant thereto
- (d) a copy of all such information and reports referred to in clauses (1) to (3) (inclusive) of Section 4.17(a) of the Indenture within the time periods specified therein (unless the SEC shall not accept such a filing) and, upon the Bank's request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act

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*Provided* that, in relation to (a), (b) and (c) above, to the extent that the Corporate Guarantor ceases to qualify as a “foreign private issuer” within the meaning of the US Exchange Act, whether or not the Corporate Guarantor is then subject to Section 13(a) or 15(d) of the US Exchange Act, the Borrower shall furnish to the Bank, so long as any Notes (as defined in the Indenture) are outstanding, within 30 days of the respective dates on which the Corporate Guarantor would be required to file such documents with the SEC if it was required to file such documents under the US Exchange Act, all reports and other information that would be required to be filed with (or furnished to) the SEC pursuant to Section 13(a) or 15(d) of the US Exchange Act.

8.1.7 Reimbursement of MII & MAP Policy premiums

Whether or not any amount is borrowed under this Agreement, reimburse the Bank on the Bank’s written demand the amount of the premium payable by the Bank for the inception or, as the case may be, extension and/or continuance of the MII & MAP Policy (including any insurance tax thereon);

8.1.8 Compliance Certificates

deliver to the Bank simultaneously with delivering the same under the Indenture, a copy of the compliance certificate to be issued and delivered in accordance with Section 4.06 of the Indenture;

8.1.9 Provision of further information

provide the Bank, and procure that the Corporate Guarantor and the Manager shall provide the Bank, with such financial or other information concerning the Borrower, the Corporate Guarantor and their respective affairs, activities, financial standing, Indebtedness and operations and the performance of the Vessel and any other ship owned by any Group Member as the Bank may from time to time require and, without the need for any request therefor provide to the Bank information of any significant nature in respect of the Borrower and/or the Corporate Guarantor and/or any other Group Member including, but not limited to, details of any loans borrowed or repaid by any of them, the purchase or sale of any substantial assets (including ships) by any of them and/or the restructuring of any loan of which any of them is a borrower;

8.1.10 Obligations under Security Documents

duly and punctually perform each of the obligations expressed to be imposed or assumed by them under the Security Documents and Underlying Documents and will procure that each of the other Security Parties will, duly and punctually perform each of the obligations expressed to be assumed by it under the Security Documents and the Underlying Documents to which it is a party;

8.1.11 Compliance with ISM Code

comply with, and will procure that any Operator will comply with, and ensure that the Vessel and any Operator comply with the requirements of the ISM Code, including (but not limited to) the maintenance and renewal of valid certificates pursuant thereto throughout the Security Period (as defined in the Mortgages);

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- 8.1.12 Withdrawal of DOC and SMC  
immediately inform the Bank if there is any actual withdrawal of their or any Operator's DOC or the SMC of the Vessel;
- 8.1.13 Issuance of DOC and SMC  
and will procure that any Operator will promptly inform the Bank of the receipt by the Borrower or any Operator of notification that its application for a DOC or any application for an SMC for the Vessel has been refused;
- 8.1.14 ISPS Code Compliance  
and will procure that the Manager or any Operator will:
- (a) maintain at all times a valid and current ISSC in respect of the Vessel;
  - (b) immediately notify the Bank in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC in respect of the Vessel; and
  - (c) procure that the Vessel will comply at all times with the ISPS Code;
- 8.1.15 Compliance with Laws and payment of taxes  
and will comply with all relevant Environmental Laws, laws, statutes and regulations (including, but not limited to, laws relating to any trading prohibition imposed by the Flag State, the country of incorporation of the Borrower or the country of nationality of any crew member of the Vessel by which the Borrower is bound) and pay all taxes for which it is liable as they fall due;
- 8.1.16 Charters etc.  
(i) deliver to the Bank a Certified Copy of each Extended Employment Contract upon its execution, (ii) forthwith on the Bank's request execute (a) a Charter Assignment in respect thereof and (b) any notice of assignment required in connection therewith and use reasonable efforts to procure the acknowledgement of any such notice of assignment by the relevant charterer (provided that any failure to procure the same shall not constitute an Event of Default) and (iii) pay all legal and other costs incurred by the Bank in connection with any such Charter Assignments, forthwith following the Bank's demand.
- 8.1.17 Indenture  
comply with all of the obligations undertaken by the Corporate Guarantor under the Indenture which are set out in the Indenture Excerpt and the Borrower further agree:
- (a) any terms defined in the Indenture shall have those meanings when used in the Indenture Excerpt;

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- (b) no waiver or variation of any term of the Indenture by any person shall waive or vary the Borrower's obligations hereunder to comply with the obligations in the Indenture Excerpt, except with the consent of the Bank;
  - (c) the Borrower shall continue to be bound by their, or as the case may be, the Corporate Guarantor's obligations as set out in the Indenture Excerpt following a Covenant Defeasance (as defined in the Indenture) or a Legal Defeasance (as defined in the Indenture) or other termination or cancellation of the Indenture;
  - (d) the Borrower will not, and will procure that the Corporate Guarantor will not, vary any term of the Indenture without the prior written consent of the Bank.

8.1.18 Dividends

The Corporate Guarantor may not declare or pay dividends except in accordance with the terms of the Indenture and then only as long as no Event of Default has occurred which is continuing.

8.1.19 Indebtedness

The Borrower shall not incur any Indebtedness other than (i) in the ordinary course of trading the Vessel or (ii) with the prior written consent of the Bank;

8.1.20 Trading

The Borrower shall not permit the Vessel to trade in any area prohibited by the government of the Flag State.

8.2 **Security value maintenance**

8.2.1 Security shortfall

If, at any time after the Delivery Date, the Security Value shall be less than the Required Security Amount, the Bank shall give notice to the Borrower requiring that such deficiency be remedied and then the Borrower must either:

- (a) prepay within a period of thirty (30) days of the date of receipt by the Borrower of the Bank's said notice such part of the Loan as will result in the Security Value after such prepayment (taking into account any other repayment of the Loan made between the date of the notice and the date of such prepayment) being equal to or higher than the Required Security Amount; or
- (b) within thirty (30) days of the date of receipt by the Borrower of the Bank's said notice constitute to the satisfaction of the Bank a first preferred ship mortgage over a ship as security for the Loan as shall be acceptable to the Bank having a value for security purposes (as determined in accordance with Clause 8.2.2) at the date upon which such mortgage is provided which, when added to the Security Value, shall not be less than the Required Security Amount as at such date; or



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- (c) within thirty (30) days of the date of receipt by the Borrower of the Bank's said notice constitute to the satisfaction of the Bank such further security for the Loan as shall be acceptable to the Bank having a value for security purposes (as determined by the Bank in its reasonable discretion) at the date upon which such further security shall be constituted which, when added to the Security Value, shall not be less than the Required Security Amount as at such date.

The provisions of clauses 4.5 and 4.6 shall apply to prepayments under clause 8.2.1(a) provided that the Bank shall apply such prepayments in pro rata reduction of the repayment instalments under clause 4.1 and the amounts of the Loan prepaid hereunder shall not be available to be re-borrowed.

#### 8.2.2 Valuation of the Vessel

The Vessel shall, for the purposes of this Agreement, be valued (at the Borrower's expense) in USD by any Approved Broker, such valuations to be made without physical inspection, and on the basis of a sale for prompt delivery for cash at arms' length, on normal commercial terms, as between a willing buyer and a willing seller, without taking into account the benefit or burden of any charterparty or other engagement concerning the Vessel and such valuations to be no older than 3 months on the date on which it is provided to the Bank, and to be provided to the Bank at such times as the Bank shall require at the cost of the Borrower,

Provided that if the Bank or the Borrower do not agree with any valuation produced as hereinbefore referred to then each of the Bank and the Borrower shall nominate an Approved Broker, and the Valuation Amount for the Vessel shall be the average of the valuations produced by those two Approved Brokers in accordance with the terms of this Clause.

The Approved Broker's valuations for the Vessel on each such occasion shall constitute the Valuation Amount of the Vessel for the purposes of this Agreement until superseded by the next such valuation.

The Bank may request valuations of the Vessel at any time in its discretion.

#### 8.2.3 Information

The Borrower undertake with the Bank to supply to the Bank and to the Approved Broker such information concerning the Vessel and its condition as such shipbrokers may require for the purpose of determining any Valuation Amount.

#### 8.2.4 Costs

All costs in connection with the obtaining and any determining of any Valuation Amount pursuant to Clause 8.2.2 and any valuation either of any additional security for the purposes of ascertaining the Security Value at any time or necessitated by the Borrower electing to constitute additional security pursuant to clause 8.2.1(b), must be paid by the Borrower, provided that prior to the occurrence of an Event of Default which is continuing the Borrower shall not pay for more than one valuation every three months.

#### 8.2.5 Valuation of additional security

For the purposes of this clause 8.2, the market value (i) of any additional security over a ship (other than the Vessel) shall be determined in accordance with clause 8.2.2 and (ii) of any other additional security provided or to be provided to the Bank shall be determined by the Bank in its reasonable discretion.

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8.2.6 Documents and evidence

In connection with any additional security provided in accordance with this clause 8.2, the Bank shall be entitled to receive (at the Borrower's expense) such evidence and documents of the kind referred to in schedule 2 as may in the Bank's opinion be appropriate and such favourable legal opinions as the Bank shall in its absolute discretion require.

8.3 **Indenture.**

Notwithstanding anything in this Agreement:

- (i) any terms, transactions or events permitted by the Indenture Excerpt and
- (ii) save as otherwise expressly provided in this Agreement, any other terms or transactions or events permitted by the Indenture shall be deemed to be permitted by this Agreement.

8.4 **Financial Covenants**

The Borrower shall procure the Net Total Debt divided by the Total Assets (adjusted for market values of vessels calculated in accordance with Clause 8.2.2) shall be less than the Relevant Leverage Percentage, where:

**"Latest Accounts"** means, in respect of any financial quarter or year of the Group, the latest unaudited (in respect of each financial quarter) or audited (in respect of each financial year) financial statements required to be prepared pursuant to clause 8.1.6;

**"Total Assets"** and **"Net Total Debt"** mean, respectively, the total assets (adjusted (i) for market values of vessels calculated in accordance with Clause 8.2.2 of this Agreement and (ii) by deducting Unencumbered Cash) and total debt (less Unencumbered Cash) of the Group as evidenced at any relevant time by the Latest Accounts, in which they shall have been calculated by reference to the meanings assigned to them in accordance with US GAAP provided that the value of any ship shall be the value thereof calculated in accordance with Clause 8.2.2 and not as set out in the Latest Accounts; and

**"Relevant Leverage Percentage"** means, for the period of up to the fifth anniversary of the Delivery Date, 80%, and thereafter 70%.

**"Unencumbered Cash"** means:

- (a) cash in hand legally and beneficially owned by any Group Member; and
- (b) cash deposits legally and beneficially owned by any Group Member and which is deposited with any bank or financial institution which in each case is free from any Encumbrance and is otherwise at the free and unrestricted disposal of the relevant Group Member by which it is owned.

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**9 CONDITIONS**

**9.1 Documents and evidence**

The Bank's obligation to make available the Advances is subject to the following conditions precedent:

- 9.1.1 that, on or before the service of the first Drawdown Notice hereunder, the Bank has received the documents described in Part A of Schedule 2 in form and substance satisfactory to the Bank and its lawyers;
- 9.1.2 that, on or before drawdown of the Advance relating to the steel cutting and keel laying instalments payable under the Shipbuilding Contract after the Refund Guarantee has been issued, the Bank has received the documents described in Part B of Schedule 2 in respect of the Vessel in form and substance satisfactory to the Bank and its lawyers;
- 9.1.3 that, on or before drawdown of the Advance relating to the launching instalment payable under the Shipbuilding Contract after the Refund Guarantee has been issued, the Bank has received the documents described in Part C of Schedule 2 in respect of the Vessel in form and substance satisfactory to the Bank and its lawyers;
- 9.1.4 that on or before the service of the Drawdown Notice in respect of the Advance relating to the delivery instalment payable under either Shipbuilding Contract, the Bank has received the documents described in Part D of Schedule 2 in respect of the Vessel in form and substance satisfactory to the Bank and its lawyers;
- 9.1.5 the representations and warranties contained in clause 7 and clauses 4.1 and 4.2 of the Corporate Guarantee being then true and correct as if each was made with respect to the facts and circumstances existing at such time; and
- 9.1.6 no Default having occurred and being continuing and there being no Default which would result from the making of the Loan.

**9.2 Waiver of conditions precedent**

The conditions specified in this clause 9 are inserted solely for the benefit of the Bank and may be waived by the Bank in whole or in part and with or without conditions.

**9.3 Further conditions precedent**

Not later than five (5) Banking Days prior to the Drawdown Date and not later than five (5) Banking Days prior to each Interest Payment Date, the Bank may reasonably request and the Borrower must, not later than two (2) Banking Days prior to such date, deliver to the Bank (at the Borrower's expense) on such request further favourable certificates and/or opinions as to any or all of the matters which are the subject of clauses 7, 8, 9 and 10 and clauses 4 and 5 of the Corporate Guarantee.

**9.4 English language**

All documents required to be delivered under and/or supplied in connection with any of the Security Documents must either be in the English language or accompanied by an English translation certified by a notary, lawyer or consulate acceptable to the Bank.

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## 10 EVENTS OF DEFAULT

### 10.1 Events

Each of the following events shall constitute an Event of Default (whether such event shall occur voluntarily or involuntarily or by operation of law or regulation or in connection with any judgment, decree or order of any court or other authority or otherwise, howsoever):

- 10.1.1 **Non-payment:** any Security Party fails to pay any sum payable by it under any of the Security Documents at the time, in the currency and in the manner stipulated in the Security Documents or the Underlying Documents (and so that, for this purpose, sums payable (i) under clauses 3.1 and 4.1 shall be treated as having been paid at the stipulated time if (aa) received by the Bank within two (2) days of the dates therein referred to and (bb) such delay in receipt is caused by administrative or other delays or errors within the banking system and (ii) on demand shall be treated as having been paid at the stipulated time if paid within two (2) Banking Days of demand); or
- 10.1.2 **Breach of Insurance and certain other obligations:** the Borrower or, as the context may require, the Manager or any other person fails to obtain and/or maintain the Insurances (as defined in, and in accordance with the requirements of, the Ship Security Documents) for the Vessel or if any insurer in respect of such Insurances cancels the Insurances or disclaims liability by reason, in either case, of mis-statement in any proposal for the Insurances or for any other failure or default on the part of the Borrower or any other person or the Borrower commits any breach of or omits to observe any of the obligations or undertakings expressed to be assumed by them under clause 8; or
- 10.1.3 **Breach of other obligations:** any Security Party commits any breach of or omits to observe any of its obligations or undertakings expressed to be assumed by it under any of the Security Documents (other than those referred to in clauses 10.1.1 and 10.1.2 above) unless such breach or omission, in the opinion of the Bank is capable of remedy, in which case the same shall constitute an Event of Default if it has not been remedied within fifteen (15) days of the occurrence thereof; or
- 10.1.4 **Misrepresentation:** any representation or warranty made or deemed to be made or repeated by or in respect of any Security Party in or pursuant to any of the Security Documents or in any notice, certificate or statement referred to in or delivered under any of the Security Documents is or proves to have been incorrect or misleading in any material respect; or
- 10.1.5 **Cross-default:** There shall occur a default (howsoever therein described) under the Indenture or any Indebtedness of any Security Party is not paid when due (subject to applicable grace periods) or any Indebtedness of any Security Party becomes (whether by declaration or automatically in accordance with the relevant agreement or instrument constituting the same) due and payable prior to the date when it would otherwise have become due (unless as a result of the exercise by the relevant Security Party of a voluntary right of prepayment), or any creditor of any Security Party becomes entitled to declare any such Indebtedness due and payable or any facility or commitment available to any Security Party relating to Indebtedness is withdrawn, suspended or cancelled by reason of any default (however described) of the person concerned; or
- 10.1.6 **Execution:** any uninsured judgment or order made against any Security Party is not stayed, appealed against or complied with within fifteen (15) days or a creditor attaches or takes possession of, or a distress, execution, sequestration or other process is levied or enforced upon or sued out against, any of the undertakings, assets, rights or revenues of any Security Party and is not discharged within thirty (30) days; or

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- 10.1.7 **Insolvency:** any Security Party is unable or admits inability to pay its debts as they fall due; suspends making payments on any of its debts or announces an intention to do so; becomes insolvent; or has negative net worth (taking into account contingent liabilities); or suffers the declaration of a moratorium in respect of any of its Indebtedness; or
- 10.1.8 **Reduction or loss of capital:** a meeting is convened by any Security Party (other than the Guarantor or the Manager) without the Bank's prior written consent, for the purpose of passing any resolution to purchase, reduce or redeem any of its share capital without the Bank's prior written consent; or
- 10.1.9 **Dissolution:** any corporate action, Proceedings or other steps are taken to dissolve or wind-up any Security Party or an order is made or resolution passed for the dissolution or winding up of any Security Party or a notice is issued convening a meeting for such purpose; or
- 10.1.10 **Administration:** any petition is presented, notice given or other steps are taken anywhere to appoint an administrator of any Security Party or the Bank believes that any such petition or other step is imminent or an administration order is made in relation to any Security Party; or
- 10.1.11 **Appointment of receivers and managers:** any administrative or other receiver is appointed anywhere of any Security Party or any part of its assets and/or undertaking or any other steps are taken to enforce any Encumbrance over all or any part of the assets of any Security Party; or
- 10.1.12 **Compositions:** any corporate action, legal proceedings or other procedures or steps are taken, or negotiations commenced, by any Security Party or by any of its creditors with a view to the general readjustment or rescheduling of all or part of its Indebtedness or to proposing any kind of composition, compromise or arrangement involving such company and any of its creditors; or
- 10.1.13 **Analogous proceedings:** there occurs, in relation to any Security Party, in any country or territory in which any of them carries on business or to the jurisdiction of whose courts any part of their assets is subject, any event which, in the reasonable opinion of the Bank, appears in that country or territory to correspond with, or have an effect equivalent or similar to, any of those mentioned in clauses 10.1.6 to 10.1.12 (inclusive) or any Security Party otherwise becomes subject, in any such country or territory, to the operation of any law relating to insolvency, bankruptcy or liquidation; or
- 10.1.14 **Cessation of business:** any Security Party suspends or ceases or threatens to suspend or cease to carry on its business without the prior written consent of the Bank, such consent not to be unreasonably withheld; or
- 10.1.15 **Seizure:** all or a material part of the undertaking, assets, rights or revenues of, or shares or other ownership interests in, any Security Party are seized, nationalised, expropriated or compulsorily acquired by or under the authority of any Government Entity; or
- 10.1.16 **Invalidity:** any of the Security Documents and the Underlying Documents shall at any time and for any reason become invalid or unenforceable or otherwise cease to remain in full force and effect, or if the validity or enforceability of any of the Security Documents and the Underlying Documents shall at any time and for any reason be contested by any Security Party which is a party thereto, or if any such Security Party shall deny that it has any, or any further, liability thereunder; or

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- 10.1.17 **Unlawfulness:** any Unlawfulness occurs or it becomes impossible or unlawful at any time for any Security Party, to fulfil any of the covenants and obligations expressed to be assumed by it in any of the Security Documents or for a Bank to exercise the rights or any of them vested in it under any of the Security Documents or otherwise; or
- 10.1.18 **Repudiation:** any Security Party repudiates any of the Security Documents or does or causes or permits to be done any act or thing evidencing an intention to repudiate any of the Security Documents; or
- 10.1.19 **Encumbrances enforceable:** any Encumbrance (other than Permitted Liens) in respect of any of the property (or part thereof) which is the subject of any of the Security Documents becomes enforceable; or
- 10.1.20 **Arrest:** the Vessel is arrested, confiscated, seized, taken in execution, impounded, forfeited, detained in exercise or purported exercise of any possessory lien or other claim or otherwise taken from the possession of the Borrower and the Borrower shall fail to procure the release of the Vessel within a period of fifteen (15) days thereafter (this clause does not include capture of the Vessel by pirates for up to 12 months (but does apply if such capture exceeds 12 months) if relevant underwriters confirm in writing (in customary terms) within ninety (90) day of capture, that such capture will be covered by the Borrower's war risks insurance); or
- 10.1.21 **Registration:** the registration of the Vessel under the laws and flag of the relevant Flag State is cancelled or terminated without the prior written consent of the Bank; or
- 10.1.22 **Unrest:** the Flag State or the country in which any Security Party is incorporated or domiciled becomes involved in hostilities or civil war or there is a seizure of power in the Flag State by unconstitutional means unless the Borrower shall have transferred the Vessel onto a new flag acceptable to the Bank within sixty (60) days of the start of such hostilities or civil war or seizure of power; or
- 10.1.23 **Environmental Incidents:** an Environmental Incident occurs which gives rise, or may give rise, to an Environmental Claim which could, in the opinion of the Bank be expected to have a material adverse effect (i) on the business, assets or financial condition of any Security Party or the Group taken as a whole or (ii) on the security constituted by any of the Security Documents or the enforceability of that security in accordance with its terms; or
- 10.1.24 **P&I:** the Borrower or the Manager or any other person fails or omits to comply with any requirements of the protection and indemnity association or other insurer with which the Vessel is entered for insurance or insured against protection and indemnity risks (including oil pollution risks) to the effect that any cover (including, without limitation, any cover in respect of liability for Environmental Claims arising in jurisdictions where the Vessel operates or trades) is or may be liable to cancellation, qualification or exclusion at any time; or
- 10.1.25 **Material events:** any other event occurs or circumstance arises which, in the opinion of the Bank, is likely materially and adversely to affect either (i) the ability of any Security Party to perform all or any of its obligations under or otherwise to comply with the terms of any of the Security Documents or (ii) the security created by any of the Security Documents; or

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- 10.1.26 **Required Authorisations:** any Required Authorisation is revoked or withheld or modified or is otherwise not granted or fails to remain in full force and effect or if any exchange control or other law or regulation shall exist which would make any transaction under the Security Documents or the continuation thereof, unlawful or would prevent the performance by any Security Party of any term of any of the Security Documents;
- 10.1.27 **Ownership/management:** there is any change in the ownership of the Borrower or the Vessel or change of Manager of the Vessel without the prior written consent of the Bank; or
- 11.1.29 **Shipbuilding Contract/Refund Guarantee:** either Shipbuilding Contract or Refund Guarantee is terminated, cancelled, revoked, suspended, rescinded, transferred, novated or otherwise ceases to remain in full force and effect for any reason except with the consent of the Bank; or
- 10.1.28 **Money Laundering:** any Security Party is in breach of or fails to observe any law, requirement, measure or procedure implemented to combat “money laundering” as defined in Article 1 of the Directive (91/308 EEC) of the Council of the European Communities; or
- 10.1.29 **Change of Control.** There shall occur a “Change of Control” (as defined in the Indenture) or the “Permitted Holder” (as defined in the Indenture) owns less than 20% of the issued share capital of the Corporate Guarantor.

10.2 **Acceleration**

The Bank may, without prejudice to any other rights of the Bank, at any time after the happening of an Event of Default so long as the same is continuing by notice to the Borrower declare that:

- 10.2.1 the obligation of the Bank to make the Commitment available shall be terminated, whereupon the Commitment shall immediately be cancelled; and/or
- 10.2.2 the Loan and all interest and commitment commission accrued and all other sums payable whensoever under the Security Documents have become due and payable, whereupon the same shall, immediately or in otherwise accordance with the terms of such notice, become due and payable.

10.3 **Demand basis**

If, under clause 10.2.2, the Bank has declared the Loan to be due and payable on demand, at any time thereafter the Bank may by further notice to the Borrower demand repayment of the Loan on such date as may be specified whereupon the Loan shall become due and payable accordingly with all interest and commitment commission accrued and all other sums payable under this Agreement.

11 **INDEMNITIES**

11.1 **General indemnity**

The Borrower agrees to indemnify the Bank on demand, without prejudice to any of the Bank’s other rights under any of the Security Documents, against any loss (including loss of Margin) or expense (including, without limitation, any Break Costs) which the Bank shall certify as sustained at any time by it in connection with this Agreement.

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11.2 **Environmental indemnity**

The Borrower shall indemnify the Bank on demand and hold it harmless from and against all costs, claims, expenses, payments, charges, losses, demands, liabilities, actions, Proceedings, penalties, fines, damages, judgements, orders, sanctions or other outgoings of whatever nature which may be incurred or made or asserted whensoever against the Bank at any time, whether before or after the repayment in full of principal and interest under this Agreement, arising howsoever out of an Environmental Claim made or asserted against the Bank which would not have been, or been capable of being, made or asserted against the Bank had it not entered into any of the Security Documents or been involved in any of the resulting or associated transactions.

11.3 **Capital adequacy and reserve requirements indemnity**

The Borrower shall promptly indemnify the Bank on demand against any cost incurred or loss suffered by the Bank as a result of its complying with (i) the minimum reserve requirements from time to time of the European Central Bank (ii) any capital adequacy directive of the European Union and/or (iii) any revised framework for international convergence of capital measurements and capital standards and/or any regulation imposed by any Government Entity in connection therewith, and/or in connection with maintaining required reserves with a relevant national central bank to the extent that such compliance or maintenance relates to the Commitment or deposits obtained by it to fund the whole or part thereof and to the extent such cost or loss is not recoverable by the Bank under clause 11.2.

12 **UNLAWFULNESS AND INCREASED COSTS MITIGATION**

12.1 **Unlawfulness**

Regardless of any other provision of this Agreement, in the event that the Bank notifies the Borrower that by reason of:

- (a) the introduction of or any change in any applicable law or regulation or any change in the interpretation or application thereof; or
- (b) compliance by the Bank with any directive, request or requirement (whether or not having the force of law) of any central bank or Government Entity

it becomes unlawful or it is prohibited by or contrary to such directive request or requirement for the Bank to maintain or give effect to any of its obligations in connection howsoever with this Agreement then (i) the Commitment shall be reduced to zero and (ii) the Borrower shall be obliged to prepay the Loan either immediately or on a future date (specified in the Bank's notice) not being earlier than the latest date permitted by the relevant law, regulation, directive, request or requirement with interest and commitment commission accrued to the date of prepayment and all other sums payable whensoever by the Borrower under this Agreement.

12.2 **Increased costs**

If the Bank certifies to the Borrower that at any time the effect of any applicable law, regulation or regulatory requirements or the interpretation or application thereof or any change therein (including the imposition upon whomsoever of Taxes on payments hereunder or otherwise howsoever in connection with this Agreement other than taxes on the overall net



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income of the Bank) or the effect of complying with any applicable directive, request or requirement (whether or not having the force of law) of any central bank or Government Entity (including, but not limited to, the “International Convergence of Capital Standards, a Revised Framework” published by the Basle Committee on Banking Supervision in June 2004 as implemented in the EU by the Capital Requirements Directive (2006/48/EC and 2006/49/EC) and including any kind of liquidity, stock or capital adequacy controls or other banking or monetary controls or requirements which affect the manner in which the Bank or its holding company allocates capital resources to the Bank’s obligations hereunder) is to:

- 12.2.1 subject the Bank to Taxes or change the basis of Taxation of the Bank relating to any payment under any of the Security Documents (other than Taxes or Taxation on the overall net income of the Bank imposed in the jurisdiction in which its principal or lending office under this Agreement is located); and/or
- 12.2.2 increase the cost to, or impose an additional cost on, the Bank or its holding company in making or keeping the Commitment available or maintaining or funding all or part of the Loan; and/or
- 12.2.3 reduce the amount payable or the effective return to the Bank under any of the Security Documents; and/or
- 12.2.4 reduce the Bank’s or its holding company’s rate of return on its overall capital by reason of a change in the manner in which it is required to allocate capital resources to the Bank’s obligations under any of the Security Documents; and/or
- 12.2.5 require the Bank or its holding company to make a payment or forgo a return on or calculated by reference to any amount received or receivable by the Bank under any of the Security Documents; and/or
- 12.2.6 require the Bank or its holding company to incur or sustain a loss (including a loss of future potential profits) by reason of being obliged to deduct all or part of the Commitment or the Loan from its capital for regulatory purposes,  
then and in each such case (subject to clause 12.3) the Borrower must on demand either:
  - (a) pay to the Bank the amount which the Bank certifies (in a certificate setting forth the basis of the computation of such amount but not including any matters which the Bank or its holding company regards as confidential) is required to compensate the Bank and/or (as the case may be) its holding company for such liability to Taxes, cost, reduction, payment, forgone return or loss; or
  - (b) prepay the Loan, in respect of which prepayment the terms of clause 4.5 shall apply.

For the purposes of this clause 12.2 and clause 12.4 “**holding company**” means the company or entity (if any) within the consolidated supervision of which the Bank is included.

### 12.3 **Exception**

Nothing in clause 12.2 shall entitle the Bank to receive any amount relating to compensation for any such liability to Taxes, increased or additional cost, reduction, payment, foregone return or loss to the extent that the same is the subject of an additional payment under clause 6.6.

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### 13 SECURITY, SET-OFF AND MISCELLANEOUS

#### 13.1 Application of moneys

All moneys received by the Bank under or pursuant to any of the Security Documents and expressed to be applicable in accordance with the provisions of this clause 13.1 shall be applied by the Bank as follows, or in such other order as the Bank may require in its absolute discretion:

- 13.1.1 first in or toward payment of all unpaid fees, commissions, sums which have been demanded by way of indemnity and expenses which may be owing to the Bank under any of the Security Documents;
- 13.1.2 secondly in or towards payment of any arrears of interest owing in respect of the Loan or any part thereof;
- 13.1.3 thirdly in or towards repayment of the Loan (whether the same is due and payable or not);
- 13.1.4 fourthly in or towards payment to the Bank for any loss which the Bank certifies it has suffered by reason of any such payment in respect of principal not being effected on an Interest Payment Date relating to the part of the Loan repaid;
- 13.1.5 fifthly in or towards payment to the Bank of any other sums which the Bank certifies are owing to it under any of the Security Documents; and
- 13.1.6 sixthly the surplus (if any) shall be paid to the Borrower or to whomsoever else may appear to the Bank to be entitled to receive such surplus.

#### 13.2 Set-off

- 13.2.1 The Borrower authorises the Bank (without prejudice to any of the Bank's rights at law, in equity or otherwise), at any time and without notice to the Borrower, to apply any credit balance to which the Borrower is then entitled standing upon any account of the Borrower with any branch of the Bank in or towards satisfaction of any sum due and payable from the Borrower to the Bank under any of the Security Documents. For this purpose, the Bank is authorised to purchase with the moneys standing to the credit of such account such other currencies as may be necessary to effect such application.
- 13.2.2 The Bank shall not be obliged to exercise any right given to it by this clause 13.2. The Bank shall notify the Borrower prior to or upon the exercise or purported exercise of any right of set-off.
- 13.2.3 Nothing in this clause 13.2 shall be effective to create a charge or other security interest.

#### 13.3 Further assurance

The Borrower undertakes with the Bank to ensure that, throughout the Facility Period, the Security Documents shall be valid and binding obligations of the respective parties thereto and rights of the Bank enforceable in accordance with their respective terms and that they will, at their expense, execute, sign, perfect and do, and will procure the execution, signing, perfecting and doing by each of the other Security Parties of, any and every such further assurance, document, act or thing as in the reasonable opinion of the Bank may be necessary or desirable for perfecting the security contemplated or constituted by the Security Documents.

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13.4 **Conflicts**

In the event of any conflict between this Agreement and any of the other Borrower's Security Documents, the provisions of this Agreement shall prevail.

13.5 **No implied waivers, remedies cumulative**

No failure or delay on the part of the Bank to exercise any power, right or remedy under any of the Security Documents shall operate as a waiver thereof, nor shall any single or partial exercise by the Bank of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power, right or remedy. The remedies provided in the Security Documents are cumulative and are not exclusive of any remedies provided by law. No waiver by the Bank shall be effective unless it is in writing.

13.6 **Severability**

If any provision of this Agreement is prohibited, invalid, illegal or unenforceable in any jurisdiction, such prohibition, invalidity, illegality or unenforceability shall not affect or impair howsoever the remaining provisions thereof or affect the validity, legality or enforceability of such provision in any other jurisdiction.

13.7 **Force Majeure**

Regardless of any other provision of this Agreement the Bank shall not be liable for any failure to perform the whole or any part of this Agreement resulting directly or indirectly from (i) the action or inaction or purported action of any governmental or local authority (ii) any strike, lockout, boycott or blockade (including any strike, lockout, boycott or blockade effected by or upon the Bank or any of its representatives or employees) (iii) any act of God (iv) any act of war (whether declared or not) or terrorism (v) any failure of any information technology or other operational systems or equipment affecting the Bank or (vi) any other circumstances whatsoever outside the Bank's control.

13.8 **Amendments**

This Agreement may be amended or varied only by an instrument in writing executed by both parties hereto who irrevocably agree that the provisions of this clause 13.8 may not be waived or modified except by an instrument in writing to that effect signed by both of them.

13.9 **Counterparts**

This Agreement may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same agreement which may be sufficiently evidenced by one counterpart.

13.10 **English language**

All documents required to be delivered under and/or supplied whensoever in connection howsoever with any of the Security Documents and all notices, communications, information and other written material whatsoever given or provided in connection howsoever therewith must either be in the English language or accompanied by an English translation certified by a notary, lawyer or consulate acceptable to the Bank.

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**13.11 Financial collateral arrangements**

- 13.11.1 Each of the agreements for the opening of the Earnings Account and the Retention Account and each of the Earnings Account Pledge and the Retention Account Pledge shall include, inter alia, “a close-out netting provision” under law 3301/2004 and Directive 2002/47/EC of the European Parliament and the Council of 6 June 2002 on financial collateral arrangements (the “**Cash Collateral Legislation**”);
- 13.11.2 Upon the occurrence of an Enforcement Event, both any amount standing to the Earnings Account and the Retention Account (regardless of any other provision) and the Loan together with any accrued interest shall become, immediately and automatically without any notice, due and payable and shall be set off and a net sum equal to any difference shall be payable by the party from whom the larger amount is due to the other party (**Close Out netting**);
- 13.11.3 For the purposes of this Clause 13.11, “**Enforcement Event**” means in respect of the Bank and/or the Borrower “winding up proceedings” or “reorganisation measures” (as these terms are defined in the Cash Collateral Legislation) or any other event (except an Event of Default) which, in each case, prevents or results in preventing the Borrower from withdrawing the funds deposited into the Earnings Account and/or the Retention Account, whether this is by virtue of a provision of any law, regulation, statutory rule or regulatory requirement or any request or order of any central bank, monetary, regulatory or other authority or any court.

**14 ACCOUNTS**

**14.1 General**

The Borrower undertakes with the Bank that they will ensure that:

- 14.1.1 the Borrower will on or before the Delivery Date, open the Earnings Account in its name; and
- 14.1.2 all moneys payable to the Borrower in respect of the Earnings (as defined in the relevant Mortgage) of the Vessel shall, unless and until the Bank directs to the contrary pursuant to the provisions of the relevant Mortgage, be paid to the Earnings Account, Provided however that if any of the moneys paid to the Earnings Account are payable in a currency other than USD, they shall be paid to a sub-account of the Earnings Account denominated in such currency (except that if the Borrower fails to open such a sub-account, the Bank shall then convert such moneys into USD at the Bank’s spot rate of exchange at the relevant time for the purchase of USD with such currency and the term “spot rate of exchange” shall include any premium and costs of exchange payable in connection with the purchase of USD with such currency).

**14.2 Earnings Account: withdrawals**

Any sums standing to the credit of the Earnings Account may be applied from time to time (i) firstly to make the payments required under this Agreement, (ii) secondly, subject to there being no breach of Clause 14.3 and to no Event of Default having occurred, in the operation of the Vessel and (iii) subject to there being at any time sufficient funds to pay amounts due under (i) and (ii) above as they fall due, thirdly for the general corporate purposes of the Borrower.

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14.3 **Retention Account: credits and withdrawals**

14.3.1 The Borrower undertakes with the Bank that, throughout the Facility Period, it will procure that, on each Retention Date there is paid (whether from the Earnings Account or elsewhere) to the Retention Account, the Retention Amount for such date.

14.3.2 Unless and until there shall occur an Event of Default (whereupon the provisions of clause 14.5 shall apply), all Retention Amounts credited to the Retention Account together with interest from time to time accruing or at any time accrued thereon must be applied by the Bank (and the Borrower hereby irrevocably authorises the Bank so to apply the same) upon each Repayment Date and/or on each day that interest is payable on the Loan pursuant to clause 3.1, in or towards payment to the Bank of the instalment then falling due for repayment or, as the case may be, the amount of interest then due. Each such application by the Bank shall constitute a payment in or towards satisfaction of the Borrower's corresponding payment obligations under this Agreement but shall be strictly without prejudice to the obligations of the Borrower to make any such payment to the extent that the aforesaid application by the Bank is insufficient to meet the same.

Unless the Bank otherwise agrees in writing and subject to this clause 14.3.2, the Borrower shall not be entitled to withdraw any moneys from the Retention Account at any time during the Facility Period.

14.4 **Application of accounts**

At any time after the occurrence of an Event of Default, the Bank may, without notice to the Borrower, apply all moneys then standing to the credit of the Earnings Account and/or the Retention Account (together with interest from time to time accruing or accrued thereon) in or towards satisfaction of any sums due to the Bank under the Security Documents in the manner specified in clause 13.1.

14.5 **Charging of accounts**

The Earnings Account and the Retention Account and all amounts from time to time respectively standing to the credit thereof shall be subject to the security constituted and the rights conferred by, respectively, the Earnings Account Pledge and the Retention Account Pledge.

14.6 **Average balance**

As of the date falling 3 months after the Delivery Date, the Borrower shall ensure that there is at all times credited to deposit accounts at the Bank or at a branch, subsidiary or affiliate of the Bank (in Greece or any other country acceptable to the Borrower) in the names of the Borrower and/or the Corporate Guarantor and the Earnings Account and the Retention Account, an average balance of \$15,000,000 per month.

**15 ASSIGNMENT, TRANSFER AND LENDING OFFICE**

15.1 **Benefit and burden**

This Agreement shall be binding upon, and ensure for the benefit of, the Bank and the Borrower and their respective successors.

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15.2 **No assignment by Borrower**

The Borrower may not assign or transfer any of their respective rights or obligations under this Agreement.

15.3 **Assignment by Bank**

The Bank may assign all or any part of its rights under any of the Security Documents to any other bank or financial institution (an “**Assignee**”) without the consent of the Borrower, but after consultation with it.

15.4 **Transfer by Bank**

The Bank may transfer all or any part of its rights, benefits and/or obligations under this Agreement and/or any of the other Security Documents to any one or more banks or other financial institutions (a “**Transferee**”) without the consent of the Borrower, but after consultation with it, provided always that any such Transferee, by delivery of such undertaking as the Bank may approve, becomes bound by the terms of this Agreement and agrees to perform all or, as the case may be, relevant part of the Bank’s obligations under this Agreement.

15.5 **Documentation**

If the Bank assigns all or any part of its rights or transfers all or any part of its rights, benefits and/or obligations as provided in clause 15.3 or 15.4 the Borrower undertakes, immediately on being requested to do so by the Bank, to enter into, and procure that the other Security Parties shall enter into, such documents as may be necessary or desirable to transfer to the Assignee or Transferee all or the relevant part of the Bank’s interest in the Security Documents. Thereafter, all relevant references in this Agreement to the Bank shall be construed as a reference to the Bank and/or its Assignee or Transferee (as the case may be) to the extent of their respective interests.

15.6 **Lending office**

The Bank shall lend through its office at the address specified above or through any other office of the Bank selected from time to time by it through which the Bank wishes to lend for the purposes of this Agreement.

15.7 **Disclosure of information**

The Bank may disclose to a prospective Assignee, Transferee or to any other person who may propose entering into contractual relations with the Bank in relation to this Agreement such information about or in connection with any of the Security Parties and the Security Documents as the Bank considers appropriate.

15.8 **No additional costs**

If at the time of, or immediately after, any assignment and/or transfer by the Bank of all or any part of its rights and/or benefits and/or obligations under this Agreement, or any change in the office through which the Bank lends for the purposes of this Agreement, the Borrower would be obliged to pay to the Assignee or Transferee or (in the case of a change of lending office) the Bank under clause 6.6 or 12.2 any sum exceeding the sum (if any) which it would have been obliged to pay to the Bank under the relevant clause had no such assignment, transfer or change taken place, the Borrower shall not be obliged to pay such excess.

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**16 NOTICES**

**16.1 General**

16.1.1 unless otherwise specifically provided herein, every notice under or in connection with this Agreement shall be given in English by letter delivered personally and/or sent by post and/or transmitted by fax;

16.1.2 in this clause “notice” includes any demand, consent, authorisation, approval, instruction, certificate, request, waiver or other communication.

**16.2 Addresses for communications, effective date of notices**

16.2.1 subject to clause 16.2.2 and clause 16.2.4 notices to the Borrower shall be deemed to have been given and shall take effect when received in full legible form by the Borrower at the address and/or the fax number appearing below (or at such other address or fax number as the Borrower may hereafter specify for such purpose to the Bank by notice in writing);

Address c/o Navios ShipManagement Inc.  
85 Akti Miaouli  
Piraeus  
Greece

Fax no: +30 210 453 2070

16.2.2 notwithstanding the provisions of clause 16.2.1 or clause 16.2.4, a notice of Default and/or a notice given pursuant to clause 10.2 or clause 10.3 shall be deemed to have been given and shall take effect when delivered, sent or transmitted by the Bank to the Borrower to the address or fax number referred to in clause 16.2.1;

16.2.3 subject to clause 16.2.4, notices to the Bank shall be deemed to be given, and shall take effect, when received in full legible form by the Bank at the address and/or the fax number appearing below (or at any such other address or fax number as the Bank may hereafter specify for such purpose to the Borrower by notice in writing);

Address 1, Korai Street  
105 64 Athens  
Greece

Fax no: +30 210 328 2307

16.2.4 if under clause 16.2.1 or clause 16.2.3 a notice would be deemed to have been given and effective on a day which is not a working day in the place of receipt or is outside the normal business hours in the place of receipt, the notice shall be deemed to have been given and to have taken effect at the opening of business on the next working day in such place.

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**17 GOVERNING LAW**

**17.1 Law**

This Agreement and any non-contractual obligations arising out of or in connection with it is governed by and shall be construed in accordance with English law.

**18 JURISDICTION**

**18.1 Exclusive jurisdiction**

For the benefit of the Bank, and subject to clause 18.4 below, the Borrower hereby irrevocably agrees that the courts of England shall have exclusive jurisdiction:

18.1.1 to settle any disputes or other matters whatsoever arising under or in connection with this Agreement (or any non-contractual obligation arising out of or in connection with this Agreement) and any disputes or other such matters arising in connection with the negotiation, validity or enforceability of this Agreement or any part thereof, whether the alleged liability shall arise under the laws of England or under the laws of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts; and

18.1.2 to grant interim remedies or other provisional or protective relief.

**18.2 Submission and service of process**

The Borrower accordingly irrevocably and unconditionally submits to the jurisdiction of the English courts. Without prejudice to any other mode of service the Borrower:

18.2.1 irrevocably empowers and appoints HFW Nominees Ltd at present of Friary Court, 65 Crutched Friars, London EC3N 2AE, England as its agent to receive and accept on its behalf any process or other document relating to any proceedings before the English courts in connection with this Agreement;

18.2.2 agrees to maintain such an agent for service of process in England from the date hereof until the end of the Facility Period;

18.2.3 agrees that failure by a process agent to notify the Borrower of service of process will not invalidate the proceedings concerned;

18.2.4 without prejudice to the effectiveness of service of process on its agent under clause 18.2.1 above but as an alternative method, consents to the service of process relating to any such proceedings by mailing or delivering a copy of the process to its address for the time being applying under clause 16.2;

18.2.5 agrees that if the appointment of any person mentioned in clause 18.2.1 ceases to be effective, the Borrower shall immediately appoint a further person in England to accept service of process on its behalf in England and, failing such appointment within seven (7) days the Bank shall thereupon be entitled and is hereby irrevocably authorised by the Borrower in those circumstances to appoint such person by notice to the Borrower.



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18.3 **Forum non conveniens and enforcement abroad**

The Borrower:

18.3.1 waives any right and agrees not to apply to the English court or other court in any jurisdiction whatsoever to stay or strike out any proceedings commenced in England on the ground that England is an inappropriate forum and/or that proceedings have been or will be started in any other jurisdiction in connection with any dispute or related matter falling within clause 18.1; and

18.3.2 agrees that a judgment or order of an English court in a dispute or other matter falling within clause 18.1 shall be conclusive and binding on the Borrower and may be enforced against it in the courts of any other jurisdiction.

18.4 **Right of Bank, but not Borrower, to bring proceedings in any other jurisdiction**

18.4.1 nothing in this clause 18 limits the right of the Bank to bring proceedings, including third party proceedings, against the Borrower, or to apply for interim remedies, in connection with this Agreement in any other court and/or concurrently in more than one jurisdiction;

18.4.2 the obtaining by the Bank of judgment in one jurisdiction shall not prevent the Bank from bringing or continuing proceedings in any other jurisdiction, whether or not these shall be founded on the same cause of action.

18.5 **Enforceability despite invalidity of Agreement**

The jurisdiction agreement contained in this clause 18 shall be severable from the rest of this Agreement and shall remain valid, binding and in full force and shall continue to apply notwithstanding this Agreement or any part thereof being held to be avoided, rescinded, terminated, discharged, frustrated, invalid, unenforceable, illegal and/or otherwise of no effect for any reason.

18.6 **Effect in relation to claims by and against non-parties**

18.6.1 for the purpose of this clause "Foreign Proceedings" shall mean any Proceedings except proceedings brought or pursued in England arising out of or in connection with or in any way related to any of the Security Documents or any assets subject thereto or any action of any kind whatsoever taken by the Bank pursuant thereto or which would, if brought by the Borrower against the Bank, have been required to be brought in the English courts;

18.6.2 the Borrower shall not bring or pursue any Foreign Proceedings against the Bank and the Borrower shall use its best endeavours to prevent persons not party to this Agreement from bringing or pursuing any Foreign Proceedings against the Bank;

18.6.3 If, for any reason whatsoever, any Security Party and/or any third party brings or pursues against the Bank any Foreign Proceedings, the Borrower shall indemnify the Bank on demand in respect of any and all claims, losses, damages, demands, causes of action, liabilities, costs and expenses (including, but not limited to, legal costs) of whatsoever nature howsoever arising from or in connection with such Foreign Proceedings which the Bank certifies as having been incurred by it;

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18.6.4 the Bank and the Borrower hereby agree and declare that the benefit of this clause 18 shall extend to and may be enforced by any officer, employee, agent or business associate of the Bank against whom the Borrower brings a claim in connection howsoever with (i) any of the Security Documents or any assets subject thereto or (ii) any action of any kind whatsoever taken by, or on behalf of or for the purported benefit of the Bank pursuant thereto, or which, if it were brought against the Bank, would fall within the material scope of clause 18.1. In those circumstances this clause 18 shall be read and construed as if references to the Bank were references to such officer, employee, agent or business associate, as the case may be.

**IN WITNESS** whereof the parties to this Agreement have caused this Agreement to be duly executed on the date first above written.

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Execution page

SIGNED by **TODD JOHNSON** )  
attorney-in-fact for and on behalf of )  
**MANDORA SHIPPING LTD** )  
pursuant to a Power of Attorney ) /s/ Todd Johnson  
dated 27 December 2011

SIGNED by Christina Margelou )  
and by Evangelia Makri )  
for and on behalf of )  
**EMPORIKI BANK OF GREECE S.A.** ) /s/ Christina Margelou /s/ Evangelia Makri  
Authorised signatories

SECOND SUPPLEMENTAL INDENTURE (this “**Second Supplemental Indenture**”), dated as of December 29, 2011, among Navios Maritime Holdings Inc., a Marshall Islands corporation (the “**Company**”), Navios Maritime Finance II (US) Inc., a Delaware corporation, (together with the Company, the “**Co-Issuers**”), and Mandora Shipping Ltd, a Marshall Islands corporation and an indirect subsidiary of the Company (the “**Guaranteeing Subsidiary**”), the other Guarantors (as defined in the Indenture referred to herein) and Wells Fargo Bank, National Association, as trustee (or its permitted successor) under the Indenture referred to below (the “**Trustee**”).

WITNESSETH

WHEREAS, the Co-Issuers and the Guarantors have heretofore executed and delivered to the Trustee an indenture (the “**Indenture**”), dated as of January 28, 2011 providing for the issuance of 8 1/8% Senior Notes due 2019 (the “**Notes**”);

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Co-Issuers’ obligations under the Notes and the Indenture on the terms and conditions set forth herein (the “**Note Guarantee**”); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Second Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Notation of Guarantee and in the Indenture, including, but not limited, to Article Ten thereof.
4. NEW YORK LAW TO GOVERN. THIS SECOND SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.
5. COUNTERPARTS. The parties may sign any number of copies of this Second Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Second Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Co-Issuers.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed and attested, all as of the date first above written.

MANDORA SHIPPING LTD

By: /s/ Vasiliki Papaefthymiou

Name: Vasiliki Papaefthymiou

Title: Director/Secretary

NAVIOS MARITIME HOLDINGS INC.

By: /s/ Vasiliki Papaefthymiou

Name: Vasiliki Papaefthymiou

Title: Executive Vice President, Legal

NAVIOS MARITIME FINANCE II (US) INC.

By: /s/ Vasiliki Papaefthymiou

Name: Vasiliki Papaefthymiou

Title: President

SOLANGE SHIPPING LTD.

TULSI SHIPMANAGEMENT CO.

CINTHARA SHIPPING LTD.

RAWLIN SERVICES COMPANY

MAUVE INTERNATIONAL S.A.

AQUIS MARINE CORP.

FAITH MARINE LTD.

VECTOR SHIPPING CORPORATION

ARAMIS NAVIGATION INC.

DUCALE MARINE INC.

KOHYLIA SHIPMANAGEMENT S.A.

HIGHBIRD MANAGEMENT INC.

FLORAL MARINE LTD.

RED ROSE SHIPPING CORP.

GINGER SERVICES CO.

QUENA SHIPMANAGEMENT INC.

ASTRA MARITIME CORPORATION

PRIMAVERA SHIPPING CORPORATION

PUEBLO HOLDINGS LTD.

BEAUFIKS SHIPPING CORPORATION

ROWBOAT MARINE INC.

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CORSAIR SHIPPING LTD.  
PHAROS NAVIGATION S.A.  
SIZZLING VENTURES INC.  
SHIKHAR VENTURES S.A.  
TAHARQA SPIRIT CORP.  
RHEIA ASSOCIATES CO.  
RUMER HOLDING LTD.  
KLEIMAR N.V.  
NAV HOLDINGS LIMITED  
NAVIOS CORPORATION  
ANEMOS MARITIME HOLDINGS INC.  
NAVIOS SHIPMANAGEMENT INC.  
AEGEAN SHIPPING CORPORATION  
ARC SHIPPING CORPORATION  
MAGELLAN SHIPPING CORPORATION  
IONIAN SHIPPING CORPORATION  
APOLLON SHIPPING CORPORATION  
HERAKLES SHIPPING CORPORATION  
ACHILLES SHIPPING CORPORATION  
KYPROS SHIPPING CORPORATION  
HIOS SHIPPING CORPORATION  
MERIDIAN SHIPPING ENTERPRISES INC.  
MERCATOR SHIPPING CORPORATION  
HORIZON SHIPPING ENTERPRISES CORPORATION  
STAR MARITIME ENTERPRISES CORPORATION  
NAVIOS HANDYBULK INC.  
NAVIOS INTERNATIONAL INC.  
NOSTOS SHIPMANAGEMENT CORP.  
PORTOROSA MARINE CORP.  
WHITE NARCISSUS MARINE S.A.  
HESTIA SHIPPING LTD. as Guarantors

By: /s/ Vasiliki Papaefthymiou  
Name: Vasiliki Papaefthymiou  
Title: Director and Authorized Officer

KLEIMAR LTD., as a Guarantor

By: /s/ George Achniotis  
Name: George Achniotis  
Title: Secretary and Director

---

NAVIMAX CORPORATION, as a Guarantor

By: /s/ Shunji Sasada

Name: Shunji Sasada  
Title: President

NAVIOS TANKERS MANAGEMENT INC.

By: /s/ Alexandros Laios

Name: Alexandros Laios  
Title: Secretary/Director

WELLS FARGO BANK, N.A., as Trustee

By: /s/ Martin Reed

Name: Martin Reed  
Title: Vice President



EIGHTH SUPPLEMENTAL INDENTURE (this “**Eighth Supplemental Indenture**”), dated as of December 29, 2011, among Navios Maritime Holdings Inc., a Marshall Islands corporation, (the “**Company**”), Navios Maritime Finance (US) Inc., a Delaware corporation (together with the Company, the “**Co-Issuers**”), and Mandora Shipping Ltd, a Marshall Islands corporation and an indirect subsidiary of the Company (the “**Guaranteeing Subsidiary**”), the other Guarantors (as defined in the Indenture referred to herein) and Wells Fargo Bank, National Association, as trustee (or its permitted successor) under the Indenture referred to below (the “**Trustee**”) and as collateral trustee (or its permitted successor) under the Indenture referred to below (the “**Collateral Trustee**”).

WITNESSETH

WHEREAS, the Co-Issuers and the Guarantors have heretofore executed and delivered to the Trustee an indenture (the “**Indenture**”), dated as of November 2, 2009 providing for the issuance of 8 <sup>7</sup>/<sub>8</sub>% First Priority Ship Mortgage Notes due 2017 (the “**Notes**”);

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Co-Issuers’ obligations under the Notes and the Indenture on the terms and conditions set forth herein (the “**Note Guarantee**”); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Eighth Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee, on and subject to the terms, conditions and limitations set forth in the Notation of Guarantee and in the Indenture, including, but not limited, to Article Ten thereof.

4. NEW YORK LAW TO GOVERN. THIS EIGHTH SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Eighth Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Eighth Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Co-Issuers.

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IN WITNESS WHEREOF, the parties hereto have caused this Eighth Supplemental Indenture to be duly executed and attested, all as of the date first above written.

MANDORA SHIPPING LTD

By: /s/ Vasiliki Papaefthymiou

Name: Vasiliki Papaefthymiou

Title: Director/Secretary

NAVIOS MARITIME HOLDINGS INC.

By: /s/ Vasiliki Papaefthymiou

Name: Vasiliki Papaefthymiou

Title: Executive Vice President, Legal

NAVIOS MARITIME FINANCE (US) INC.

By: /s/ Vasiliki Papaefthymiou

Name: Vasiliki Papaefthymiou

Title: President

SOLANGE SHIPPING LTD.

TULSI SHIPMANAGEMENT CO.

CINTHARA SHIPPING LTD.

RAWLIN SERVICES COMPANY

MAUVE INTERNATIONAL S.A.

NAVIOS MARITIME FINANCE II (US) INC.

AQUIS MARINE CORP.

FAITH MARINE LTD.

VECTOR SHIPPING CORPORATION

ARAMIS NAVIGATION INC.

DUCALE MARINE INC.

HIGHBIRD MANAGEMENT INC.

FLORAL MARINE LTD.

RED ROSE SHIPPING CORP.

GINGER SERVICES CO.

QUENA SHIPMANAGEMENT INC.

ASTRA MARITIME CORPORATION

PRIMAVERA SHIPPING CORPORATION

PUEBLO HOLDINGS LTD.

BEAUFIKS SHIPPING CORPORATION

ROWBOAT MARINE INC.

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CORSAIR SHIPPING LTD.  
PHAROS NAVIGATION S.A.  
SIZZLING VENTURES INC.  
SHIKHAR VENTURES S.A.  
TAHARQA SPIRIT CORP.  
RHEIA ASSOCIATES CO.  
RUMER HOLDING LTD.  
KLEIMAR N.V.  
NAV HOLDINGS LIMITED  
NAVIOS CORPORATION  
ANEMOS MARITIME HOLDINGS INC.  
NAVIOS SHIPMANAGEMENT INC.  
AEGEAN SHIPPING CORPORATION  
ARC SHIPPING CORPORATION  
MAGELLAN SHIPPING CORPORATION  
IONIAN SHIPPING CORPORATION  
APOLLON SHIPPING CORPORATION  
HERAKLES SHIPPING CORPORATION  
ACHILLES SHIPPING CORPORATION  
KYPROS SHIPPING CORPORATION  
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MERIDIAN SHIPPING ENTERPRISES INC.  
MERCATOR SHIPPING CORPORATION  
HORIZON SHIPPING ENTERPRISES CORPORATION  
STAR MARITIME ENTERPRISES CORPORATION  
NAVIOS HANDYBULK INC.  
NAVIOS INTERNATIONAL INC.  
NOSTOS SHIPMANAGEMENT CORP. PORTOROSA  
MARINE CORP.  
WHITE NARCISUS MARINE S.A.  
HESTIA SHIPPING LTD. as Guarantors

By: /s/ Vasiliki Papaefthymiou  
Name: Vasiliki Papaefthymiou  
Title: Director and Authorized Officer

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By: /s/ George Achniotis  
Name: George Achniotis  
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By: /s/ Shunji Sasada

Name: Shunji Sasada

Title: President

NAVIOS TANKERS MANAGEMENT INC.

By: /s/ Alexandros Laios

Name: Alexandros Laios

Title: Secretary/Director

WELLS FARGO BANK, N.A., as Trustee

By: /s/ Martin Reed

Name: Martin Reed

Title: Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Collateral Trustee

By: /s/ Martin Reed

Name: Martin Reed

Title: Vice President